

SENATE BILL No. 512

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10; IC 3-11; IC 4-3-22-17; IC 4-23-24.2-5.1; IC 6-1.1; IC 12-20; IC 15-16; IC 16-31-5-1; IC 22-11-14; IC 22-12-1-18.7; IC 23-14; IC 32-26; IC 36-1-8-17; IC 36-2; IC 36-6-1.1; IC 36-8; IC 36-9-17.5-1; IC 36-10.

Synopsis: Elimination of townships. Abolishes, effective January 1, 2013, the offices of township trustee and township board, and transfers all township duties and responsibilities, including township assistance, fire protection, cemetery maintenance, weed control, and parks and recreation, to the county executive. Establishes a township assistance transition advisory committee in each county to prepare a plan for providing township assistance on a countywide basis. Requires the office of local technical assistance to review and modify the plan to meet statutory requirements. Provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, personnel, records, rights, contracts (including labor contracts), and indebtedness. Requires the department of local government finance (DLGF) to adjust maximum permissible property tax levies and property tax rates as necessary to account for transfers of duties, powers, and obligations. Provides that a public safety planning board (board) is established on July 1, 2011, in each county not having a consolidated city. Requires the board to prepare before July 1, 2012, a binding public safety plan that applies to specified public safety services throughout the entire county. Provides that the

(Continued next page)

Effective: July 1, 2009; January 1, 2011.

Lawson C

January 15, 2009, read first time and referred to Committee on Local Government.



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plan must do the following: (1) Include local standards of service for public safety services. (2) Review and (if necessary) require the adjustment of any collaborative service arrangements related to public safety services. (3) Provide for a fair distribution of public safety services and the tax burden to pay for those public safety services. Prohibits the establishment of fire protection territories and fire protection districts after June 30, 2009. Requires the office of management and budget to establish an office of local technical assistance (office). Requires the office to: (1) promote sound fiscal, management, and operational practices in local government and assist units of local government in carrying out these practices; and (2) coordinate interaction between units of local government and state agencies. Requires the DLGF and the state board of accounts to consult with the office as the DLGF and the state board of accounts develop and adopt transition rules to assist units of local government that are consolidating entire units or specific functions. Allows a county after 2012 to: (1) provide county township assistance and public safety service at different levels of service in service districts in the county; and (2) apply property taxes or fees in different amounts in the service districts. Requires justification for providing services at different levels. Allows the county in later years to expand (but not contract) the service district in which service is provided at the higher level, or to provide the higher level of service in the entire county. Requires the advisory commission on intergovernmental relations to monitor the progress of local governments in implementing the recommendations made by the commission on local government reform and prepare an annual report of its findings.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 512

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-10-1-19, AS AMENDED BY P.L.146-2008,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 19. (a) The ballot for a primary election shall be
4 printed in substantially the following form for all the offices for which
5 candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

6
7 _____ Party
8 For paper ballots, print: To vote for a person, make a voting mark
9 (X or ✓) on or in the box before the person's name in the proper
10 column. For optical scan ballots, print: To vote for a person, darken or
11 shade in the circle, oval, or square (or draw a line to connect the arrow)
12 that precedes the person's name in the proper column. For optical scan
13 ballots that do not contain a candidate's name, print: To vote for a
14 person, darken or shade in the oval that precedes the number assigned
15 to the person's name in the proper column. For electronic voting



systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor. **This clause does not apply to elections in 2012 and thereafter in a county not having a consolidated city.**

(H) County commissioner.

(I) County council member.

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(5) Township offices:

(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(B) Township trustee. **This clause does not apply to elections in 2012 and thereafter in a county not having a consolidated city.**

(C) Township board member. **This clause does not apply to elections in 2012 and thereafter in a county not having a consolidated city.**

(D) Judge of the small claims court (**only in a county having a consolidated city**).

(E) Constable of the small claims court (**only in a county having a consolidated city**).

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.

(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.

(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

(1) in a separate column on the ballot if voting is by paper ballot;

(2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or

(3) either:

(A) on a separate screen for each office or public question; or

(B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;

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if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

SECTION 2. IC 3-10-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 29. The canvass of votes cast in a primary election shall, as far as applicable, be made in the same manner and by the same officers as the canvass at a general election. The tally sheet upon which the count has been entered shall be included in the returns of the election. Each precinct election board shall, on blanks provided for that purpose, make full and accurate returns of the votes cast for each candidate and on each public question unless votes were cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The board shall set forth in the return, opposite the name of each candidate and public question, the number of votes cast for the candidate and for or against each public question. The tabular statement must contain the following information, with the names of candidates and public questions arranged in the order in which they appear upon the official ballot:

(1) The name of the precinct.

~~(2) The name of the township (or ward):~~

~~(3) (2)~~ The name of the county.

~~(4) (3)~~ The name of the party of the candidates for Representative in Congress.

SECTION 3. IC 3-10-2-13, AS AMENDED BY P.L.146-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

(1) Clerk of the circuit court.

(2) County auditor.

(3) County recorder.

(4) County treasurer.

(5) County sheriff.

(6) County coroner.

(7) County surveyor.

(8) County assessor. **This subdivision does not apply to**

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elections in 2012 and thereafter in a county not having a consolidated city.

(9) County commissioner.

(10) County council member.

(11) Township trustee. **This subdivision does not apply to elections in 2012 and thereafter in a county not having a consolidated city.**

(12) Township board member. **This subdivision does not apply to elections in 2010 and thereafter in a county not having a consolidated city.**

(13) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(14) Judge of a small claims court **(only in a county having a consolidated city).**

(15) Constable of a small claims court **(only in a county having a consolidated city).**

(b) Notwithstanding subsection (a), in a county not having a consolidated city, an individual elected to any of the following offices at the general election in 2010 shall serve a two (2) year term:

(1) County assessor.

(2) Township trustee.

(3) Township board member.

This subsection expires January 1, 2013.

SECTION 4. IC 3-11-1.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 4. A county executive shall establish precincts so that each boundary of each precinct does not cross the boundary of:

(1) the state;

(2) a county;

~~(3) a township;~~

~~(4)~~ (3) a district of the House of Representatives of the Congress of the United States;

~~(5)~~ (4) a district of the senate of the general assembly; or

~~(6)~~ (5) a district of the house of representatives of the general assembly.

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:

(A) President and Vice President of the United States.

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- 1 (B) United States Senator.
- 2 (C) Governor and lieutenant governor.
- 3 (D) Secretary of state.
- 4 (E) Auditor of state.
- 5 (F) Treasurer of state.
- 6 (G) Attorney general.
- 7 (H) Superintendent of public instruction.
- 8 (I) United States Representative.
- 9 (2) Legislative offices:
- 10 (A) State senator.
- 11 (B) State representative.
- 12 (3) Circuit offices and county judicial offices:
- 13 (A) Judge of the circuit court, and unless otherwise specified
- 14 under IC 33, with each division separate if there is more than
- 15 one (1) judge of the circuit court.
- 16 (B) Judge of the superior court, and unless otherwise specified
- 17 under IC 33, with each division separate if there is more than
- 18 one (1) judge of the superior court.
- 19 (C) Judge of the probate court.
- 20 (D) Judge of the county court, with each division separate, as
- 21 required by IC 33-30-3-3.
- 22 (E) Prosecuting attorney.
- 23 (F) Clerk of the circuit court.
- 24 (4) County offices:
- 25 (A) County auditor.
- 26 (B) County recorder.
- 27 (C) County treasurer.
- 28 (D) County sheriff.
- 29 (E) County coroner.
- 30 (F) County surveyor.
- 31 (G) County assessor. **This clause does not apply to elections**
- 32 **in 2012 and thereafter in a county not having a**
- 33 **consolidated city.**
- 34 (H) County commissioner.
- 35 (I) County council member.
- 36 (5) Township offices:
- 37 (A) Township assessor (only in a township referred to in
- 38 IC 36-6-5-1(d)).
- 39 (B) Township trustee. **This clause does not apply to elections**
- 40 **in 2012 and thereafter in a county not having a**
- 41 **consolidated city.**
- 42 (C) Township board member. **This clause does not apply to**

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elections in 2012 and thereafter in a county not having a consolidated city.

(D) Judge of the small claims court **(only in a county having a consolidated city).**

(E) Constable of the small claims court **(only in a county having a consolidated city).**

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

SECTION 6. IC 4-3-22-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. (a) The office of local technical assistance is established as a division within the OMB. The director shall appoint, subject to the approval of the governor, a director of the office, who serves at the pleasure of the director.**

(b) The office of local technical assistance shall do the following:

(1) Promote sound fiscal, management, and operational practices in local government and assist units of local government in carrying out these practices.

(2) Coordinate interaction between units of local government and state agencies.

(c) The department of local government finance and the state board of accounts shall consult with the office of local technical assistance as the department of local government finance and the state board of accounts develop and adopt transition rules to assist units of local government that are consolidating entire units or specific functions.

SECTION 7. IC 4-23-24.2-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.1. (a) The commission shall do the following:**

(1) Monitor the progress of local governments in implementing the recommendations made in the December 11, 2007, final report of the Indiana commission on local government reform entitled "Streamlining Local Government".

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(2) Conduct any necessary additional research.

(b) The commission shall, not later than July 1 of each year, submit an annual report of its findings under subsection (a)(1) to the governor and the legislative council. The report to the legislative council must be in an electronic format under IC 5-14-6.

(c) This section expires January 1, 2014.

SECTION 8. IC 6-1.1-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case of real property occupied, by the owner.

(b) The exemption application referred to in section 3 of this chapter is not required if the exempt property is a cemetery:

(1) described by IC 6-1.1-2-7; or

(2) maintained by a township executive **or the county executive (after December 31, 2012)** under IC 23-14-68.

(c) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the bureau of motor vehicles commission established under IC 9-15-1.

(d) The exemption application referred to in section 3 of this chapter is not required if:

(1) the exempt property is:

(A) tangible property used for religious purposes described in IC 6-1.1-10-21; or

(B) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16; and

(2) the exemption application referred to in section 3 of this chapter was filed properly at least once after the property was designated for a religious use as described in IC 6-1.1-10-21 or an educational use as described in IC 6-1.1-10-16.

However, if title to any of the real property subject to the exemption changes or any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application, this subsection does not apply.

SECTION 9. IC 6-1.1-17-3, AS AMENDED BY P.L.146-2008, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state

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board of accounts. The political subdivision shall give notice by publication to taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund; and
- (4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.

(b) Beginning in 2010, before October 1 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

- (1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(c) (before July 1, 2008) or IC 6-1.1-15-1 (after June 30, 2008);
- (2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:
 - (A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);
 - (B) any deductions or exemptions that apply to the assessed valuation of the tangible property;
 - (C) any credits that apply in the determination of the tax liability; and
 - (D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:
 - (i) the county board of tax adjustment; or
 - (ii) the department of local government finance;

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(3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by:

(i) the county board of tax adjustment; or

(ii) the department of local government finance;

it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing;

statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

~~(f) This subsection expires January 1, 2009. A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:~~

~~(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.~~

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(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund:

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

(f) This subsection applies to budgets for calendar years after 2012 and to taxes first due and payable after 2012 for a county not having a consolidated city. As set forth in IC 6-1.1-17-3(f):

(1) in 2012 and each year thereafter, the county shall estimate the amount necessary to meet the cost of township assistance in the county for the ensuing calendar year; and

(2) the county legislative body shall adopt with the county budget a tax rate uniform throughout the county sufficient to meet the estimated cost of township assistance.

The taxes collected as a result of the tax rate adopted under this subsection shall be credited to the county assistance fund established under IC 12-20-1-6.

SECTION 10. IC 6-1.1-18.5-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18.5. (a) Except as provided in subsection (b), the maximum permissible ad valorem property tax levy for the county's firefighting fund under IC 36-8-13.6-3 for property taxes first due and payable after December 31, 2012, is the amount determined in STEP TWO of the following STEPS:

STEP ONE: Determine:

(A) for ad valorem property taxes first due and payable in 2013:

(i) the combined maximum ad valorem property tax levy under IC 6-1.1-18.5 of all the townships in the county for the townships' firefighting funds established under IC 36-8-13-4 for property taxes first due and payable in 2012; plus

(ii) the combined maximum ad valorem property tax levy for property taxes first due and payable in 2012 for all fire protection territories and fire protection districts in the county that are abolished effective January 1, 2013; or

(B) for ad valorem property taxes first due and payable after 2013, the maximum permissible ad valorem property

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1 tax levy for the county's firefighting fund determined
 2 under this section for ad valorem property taxes first due
 3 and payable in the immediately preceding calendar year.
 4 **STEP TWO: Multiply the amount determined in STEP ONE**
 5 **by the amount determined in the last STEP of section 2(b) of**
 6 **this chapter.**

7 (b) Notwithstanding subsection (a), the department of local
 8 government finance may decrease the maximum permissible ad
 9 valorem property tax levy determined under this section for
 10 property taxes first due and payable in 2013 to reflect any cost
 11 savings associated with the transfer of fire protection duties from
 12 townships to the county.

13 SECTION 11. IC 6-1.1-18.5-22 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2009]: **Sec. 22. The ad valorem property tax**
 16 **levy limits imposed by this chapter do not apply to ad valorem**
 17 **property taxes imposed by a county to pay or fund any**
 18 **indebtedness assumed, defeased, paid, or refunded under**
 19 **IC 36-6-1.1 after December 31, 2012.**

20 SECTION 12. IC 12-20-1-5 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2009]: **Sec. 5. (a) This section applies only to a county not having**
 23 **a consolidated city.**

24 (b) Effective January 1, 2013, the county executive shall
 25 administer township assistance on a countywide basis in
 26 accordance with the plan prepared by the township assistance
 27 transition advisory committee under IC 12-20-1.5.

28 (c) The following apply to the provision of township assistance
 29 by the county executive:

30 (1) A suit or proceeding in favor of or against the county
 31 executive concerning township assistance shall be conducted
 32 in favor of or against the county in the county's corporate
 33 name.

34 (2) The county executive is entitled to the same protections
 35 and immunities as are afforded to a township trustee under
 36 IC 12-20-3.

37 (3) The county executive has the same powers in the
 38 administration of township assistance in the county as a
 39 township trustee has in the administration of township
 40 assistance in a county under IC 12-20-4, IC 12-20-5,
 41 IC 12-20-15, IC 12-20-16, IC 12-20-17, IC 12-20-18, and
 42 IC 12-20-19.

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(4) The same standards and requirements that apply to or may be imposed upon recipients of and applicants for township assistance under IC 12-20-6, IC 12-20-7, IC 12-20-8, IC 12-20-9, IC 12-20-10, IC 12-20-11, IC 12-20-12, and IC 12-20-13 apply to or may be imposed upon recipients of and applicants for township assistance administered by the county executive.

(5) The county executive may assert a claim against the estate of an individual who received township assistance from the county to the same extent as a township trustee may assert a claim under IC 12-20-27 against the estate of an individual who received township assistance from a township.

(6) The county executive is subject to the same reporting requirements with respect to township assistance administered in the county to which a township trustee is subject under IC 12-20-28 with respect to township assistance administered in the township.

(7) The county executive shall propose uniform standards for the issuance of township assistance throughout the county and the processing of applications for township assistance that meet the requirements of IC 12-20-5.5. The standards shall be adopted by the county legislative body.

(8) State and local agencies shall provide the county executive with the information provided to a township trustee under IC 12-20-7. The county executive or an employee of the county is subject to the criminal penalty set forth in IC 12-20-7-6 for disclosure of information.

(9) An applicant for township assistance and the county executive may appeal a decision regarding township assistance to a circuit or superior court in the same manner that an appeal is taken under IC 12-20-15-8.

(d) Any application for township assistance for which the township has not entered a final decision regarding the granting or denial of township assistance by the close of business on December 31, 2012, shall be treated as a new application filed with the county on January 1, 2013, and the applicant is not required to refile the application with the county. The county executive shall make a decision on the application in accordance with the uniform standards adopted under subsection (c)(7).

(e) Any application for township assistance that has been granted before January 1, 2013, but for which assistance has not been disbursed by the township, shall be disbursed and

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administered by the county executive in accordance with the township's grant of township assistance.

SECTION 13. IC 12-20-1-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 6. (a) This section applies only to a county not having a consolidated city.**

(b) The county shall establish a county assistance fund.

(c) The fund shall be raised by a tax levy that:

(1) is in addition to all other tax levies authorized; and

(2) subject to IC 36-2-22, shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual township assistance budget for the county.

(d) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(e) The following shall be paid into the fund:

(1) All receipts from the tax imposed under this section.

(2) Any other money required by law to be placed in the fund.

(f) The fund is available to pay expenses and obligations set forth in the annual budget.

(g) Money in the fund at the end of a budget year does not revert to the county general fund.

SECTION 14. IC 12-20-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 1.5. County Township Assistance

Sec. 1. This chapter applies only to a county not having a consolidated city.

Sec. 2. As used in this chapter "committee" means the township assistance transition advisory committee established under section 4 of this chapter.

Sec. 3. As used in this chapter, "office" means the office of local technical assistance established by IC 4-3-22-17.

Sec. 4. (a) A township assistance transition advisory committee is established in each county beginning July 1, 2011. A committee consists of:

(1) The following voting members:

(A) The members of the county executive.

(B) The members of the county fiscal body.

(2) The following nonvoting members appointed by the county executive:

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(A) A trustee of a township located in an incorporated area.

(B) A trustee of a township located in an unincorporated area.

(C) One (1) person employed by a faith based human service provider agency.

(D) One (1) person employed by a government funded human service provider agency.

(E) One (1) person employed by a nonprofit human service provider agency.

(F) Two (2) citizen members not employed by the government or a human service provider agency.

(b) A majority of the voting members of a committee constitutes a quorum. An affirmative vote of a majority of the voting members is required for the committee to take action.

(c) The members of a committee serve at the pleasure of the appointing authority.

(d) The members of a committee are not entitled to compensation for their services but are allowed their actual and necessary traveling and other expenses to be paid in the same manner as the other expenses by the county executive.

Sec. 5. A committee shall prepare a plan for the provision of township assistance in the county that must be consistent with the following:

(1) Subject to IC 36-2-22, the county shall provide township assistance on a countywide basis.

(2) The county shall provide reasonable levels of accessibility to township assistance services.

(3) The county shall provide the flexibility to contract with human service providers to provide services.

(4) The county shall coordinate township assistance services and other human services (as defined in IC 8-1-19.5-6).

(5) The county shall provide a uniform method of collecting information and data in accordance with the standards established by the office of management and budget under IC 4-3-22-16.

Sec. 6. A plan prepared under section 5 of this chapter may not take effect until the plan is reviewed by the office for compliance with section 5 of this chapter.

Sec. 7. (a) A committee may hold one (1) or more public hearings on a plan prepared under section 5 of this chapter. The committee must give notice of the hearing in accordance with

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1 **IC 5-3-1.**

2 (b) Not later than January 1, 2012, the committee shall present
3 the plan to the office.

4 **Sec. 8. Not later than July 1, 2012, the office shall:**

5 (1) review a plan prepared under section 5 of this chapter;
6 and

7 (2) make modifications to the plan;

8 to ensure that the plan meets the requirements of section 5 of this
9 chapter.

10 **Sec. 9. If a plan is approved by the office, the plan and the**
11 **transfer of township assistance responsibilities to the county**
12 **executive takes effect on January 1, 2013.**

13 **Sec. 10. The committee is abolished January 1, 2013.**

14 SECTION 15. IC 15-16-7-4, AS ADDED BY P.L.2-2008,
15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2009]: Sec. 4. (a) The weed control board consists of the
17 following members to be appointed by the authorizing body:

18 (1) One (1) **member appointed as follows:**

19 (A) A township trustee of a township in the county.

20 (B) **After December 31, 2012, in a county not having a**
21 **consolidated city, the county executive or the county**
22 **executive's designee.**

23 (2) One (1) soil and water conservation district supervisor.

24 (3) One (1) representative from the agricultural community of the
25 county.

26 (4) One (1) representative from the county highway department
27 or an appointee of the county commissioners.

28 (5) One (1) cooperative extension service agent from the county
29 to serve in a nonvoting advisory capacity.

30 (b) Each board member shall be appointed for a term of four (4)
31 years. All vacancies in the membership of the board shall be filled for
32 the unexpired term in the same manner as initial appointments.

33 (c) The board shall elect a chairperson and a secretary. The
34 members of the board are not entitled to receive any compensation, but
35 are entitled to any traveling and other expenses that are necessary in the
36 discharge of the members' duties.

37 SECTION 16. IC 15-16-8-0.5 IS ADDED TO THE INDIANA
38 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. After December 31, 2012, the**
40 **powers and duties established by this chapter are conferred and**
41 **imposed:**

42 (1) **in a county not having a consolidated city, on the county**

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executive with respect to property in the county; and
 (2) in all other counties, on the township trustee with respect
 to property in the township.

SECTION 17. IC 15-16-8-0.6 IS ADDED TO THE INDIANA
 CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: **Sec. 0.6. As used in this chapter,**
"county executive" means after December 31, 2012:

(1) the county executive of a county not having a consolidated
 city; or

(2) the county executive's designee who is responsible for
 administering this chapter for the county.

SECTION 18. IC 15-16-8-1.5 IS ADDED TO THE INDIANA
 CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter,**
"fund" means:

(1) the township fund; or

(2) after December 31, 2012, the appropriate county fund in
 a county not having a consolidated city.

SECTION 19. IC 15-16-8-4, AS ADDED BY P.L.2-2008,
 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2009]: **Sec. 4. (a) If a township trustee or (after December**
31, 2012) the county executive:

(1) has reason to believe that detrimental plants may be on real
 estate; and

(2) gives the owner or person in possession of the real estate
 forty-eight (48) hours notice under subsection (e);

the township trustee **or (after December 31, 2012) the county**
executive may enter the real estate to investigate whether there are
 detrimental plants on the real estate.

(b) Except as provided in subsection (d), if the township trustee **or**
(after December 31, 2012) the county executive determines by:

(1) investigating real estate located in the trustee's township **or**
(after December 31, 2012) a county not having a consolidated
city; or

(2) visual inspection without entering real estate located in the
 trustee's township **or (after December 31, 2012) a county not**
having a consolidated city;

that a person has detrimental plants growing on real estate, the trustee
or (after December 31, 2012) the county executive shall give written
 notice under subsection (e) to the owner or person in possession of the
 real estate to destroy the detrimental plants. The owner or person in
 possession of the real estate shall destroy the plants in a manner

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provided in section 3 of this chapter not more than five (5) days after the notice is received under subsection (f).

(c) If the detrimental plants are not destroyed as provided in subsection (b), the trustee shall cause the detrimental plants to be destroyed in a manner most practical to the trustee **or (after December 31, 2012) the county executive** not more than eight (8) days after notice is received by the owner or person in possession of the real estate under subsection (f). The trustee **or (after December 31, 2012) the county executive** may hire a person to destroy the detrimental plants. The trustee **or (after December 31, 2012) the county executive** or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out the work, except for gross negligence or willful or wanton destruction.

(d) If the county has established a county weed control board under IC 15-16-7, the township trustee **or (after December 31, 2012) the county executive** may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee **or (after December 31, 2012) the county executive**. The county weed control board shall notify the township trustee **or (after December 31, 2012) the county executive** of the board's decision.

(e) Notice required in subsection (a) or (b) may be given by:

- (1) certified mail; or
- (2) personal service.

(f) Notice under subsection (e) is considered received by the owner or person in possession of the real estate:

- (1) if sent by mail, on the earlier of:
 - (A) the date of signature of receipt of the mailing; or
 - (B) three (3) business days after the date of mailing; or
- (2) if served personally, on the date of delivery.

SECTION 20. IC 15-16-8-5, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The township trustee **or (after December 31, 2012) the county executive** may pay the following costs incurred in cutting or destroying detrimental plants under this chapter:

- (1) Chemicals.
- (2) Work.
- (3) Labor, at a rate per hour to be fixed by the township trustee

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commensurate with local hourly wages.

(b) If the trustee **or (after December 31, 2012) the county executive** believes the infestation of the real estate with detrimental plants is so great and widespread that cutting or eradication by hand methods is impractical, the trustee shall use the necessary power machinery or equipment. The trustee **or (after December 31, 2012) the county executive** may pay for the work at a rate per hour fixed by the township trustee **or (after December 31, 2012) the county executive** commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the township trustee **or (after December 31, 2012) the county executive**. When the bill has been approved, the trustee shall pay the bill out of the township fund **or (after December 31, 2012) the county executive shall pay the bill out of the appropriate county fund**. If there is no money available in the township fund for that purpose, the township board, upon finding an emergency exists, shall act under IC 36-6-6-14(b) or IC 36-6-6-15 to borrow money sufficient to meet the emergency. **After December 31, 2012, the county council shall act in the case of a county not having a consolidated city.**

(d) ~~The trustee, when submitting estimates to the township board~~ **An estimate, when submitted to the township board or (after December 31, 2012) the county council** for action, shall include in the ~~estimates~~ **estimate** an item sufficient to cover those expenditures.

SECTION 21. IC 15-16-8-6, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The township trustee **or (after December 31, 2012) the county executive** shall prepare a statement that contains the following:

(1) A certification of the following costs:

(A) The cost or expense of the work.

(B) The cost of the chemicals.

(C) Twenty dollars (\$20) per day for each day that the trustee or the trustee's agent **or (after December 31, 2012) the county executive or executive's agent** supervises the performance of the services required under this chapter as compensation for services.

(2) A description of the real estate on which the labor was performed.

(3) A request that the owner or person in possession of the real estate pay the costs under subdivision (1) to the township trustee **or (after December 31, 2012) the county executive**.

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(b) The certified statement prepared under subsection (a) shall be provided:

(1) to the owner or person possessing the real estate by:

(A) mail, using a certificate of mailing; or

(B) personal service; or

(2) by mailing the certified statement to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

SECTION 22. IC 15-16-8-7, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) If the owner or person in possession of the property does not pay the amount set forth in the certified statement under section 6(a) of this chapter within ten (10) days after receiving the notice under section 6(b) of this chapter, the township trustee **or (after December 31, 2012) the county executive** shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 8 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds shall be deposited in the:

(1) trustee's township funds for use at the discretion of the trustee;

or

(2) after December 31, 2012, in the case of a county not having a consolidated city, appropriate county fund.

SECTION 23. IC 15-16-8-9, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. Except as provided in sections 5 through 8 of this chapter, the county auditor, upon receiving and filing a certified statement under section 7(a) of this chapter, shall:

(1) immediately place the amounts on the certified statement on the tax duplicate of the county; and

(2) collect the amounts at the next tax paying time for:

(A) the proper township or townships; **or**

(B) after December 31, 2012, a county not having a consolidated city;

the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales.

After the amounts are collected, the amounts shall be paid to the proper

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trustee and placed in the township fund **or (after December 31, 2012) in the case of a county not having a consolidated city, placed in the appropriate county fund.**

SECTION 24. IC 15-16-8-10, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) When the annual township budget is prepared, a sufficient amount shall be appropriated to enable the township ~~officials~~ **trustees** to comply with this chapter.

(b) **After December 31, 2012, in a county not having a consolidated city, when the annual county budget is prepared, a sufficient amount shall be appropriated to enable the county executive to comply with this chapter.**

SECTION 25. IC 15-16-8-12, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees **or (after December 31, 2012) the county executive** for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or (after December 31, 2012) a county not having a consolidated city** shall assist the township trustee **or (after December 31, 2012) the county executive** in carrying out the duties imposed on the trustee **or (after December 31, 2012) the county executive** under this chapter.

SECTION 26. IC 15-16-8-14, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;
- (2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate the plants by chemicals each year, as prescribed in this chapter;
- (3) having charge of or control over any highway:
 - (A) knowingly allows detrimental plants to grow or mature on the right-of-way of the highway; or
 - (B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter;
- (4) having charge of or control over the right-of-way of a railroad or interurban company:
 - (A) knowingly allows detrimental plants to grow and mature on the right-of-way; or
 - (B) knowing of the existence of the detrimental plants, fails to

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1 cut the plants down or eradicate the plants by using chemicals,
 2 as prescribed in this chapter; or
 3 (5) knowingly sells Canada thistle (*cirsium arvense*) seed;
 4 commits a Class C infraction. Each day this section is violated
 5 constitutes a separate infraction.

6 (b) All judgments collected under this section shall be:

7 (1) paid to the trustee and placed in the trustee's township funds
 8 for use at the discretion of the trustee; or

9 (2) **after December 31, 2012, placed in the appropriate county**
 10 **fund, in the case of property located in a county that does not**
 11 **have a consolidated city.**

12 SECTION 27. IC 16-31-5-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) After December**
 14 **31, 2012, this section, to the extent it applies to townships, applies**
 15 **only to a township:**

16 (1) **in a county having a consolidated city; and**

17 (2) **that has not consolidated the township's fire department**
 18 **under IC 36-3-1-6.1.**

19 (b) The governing body of a city, town, township, or county by the
 20 governing body's action or in any combination may do the following:

21 (1) Establish, operate, and maintain emergency medical services.
 22 (2) Levy taxes under and limited by IC 6-3.5 and expend
 23 appropriated funds of the political subdivision to pay the costs
 24 and expenses of establishing, operating, maintaining, or
 25 contracting for emergency medical services.

26 (3) Except as provided in section 2 of this chapter, authorize,
 27 franchise, or contract for emergency medical services. However:

28 (A) a county may not provide, authorize, or contract for
 29 emergency medical services within the limits of any city
 30 without the consent of the city; and

31 (B) a city or town may not provide, authorize, franchise, or
 32 contract for emergency medical services outside the limits of
 33 the city or town without the approval of the governing body of
 34 the area to be served.

35 (4) Apply for, receive, and accept gifts, bequests, grants-in-aid,
 36 state, federal, and local aid, and other forms of financial
 37 assistance for the support of emergency medical services.

38 (5) Establish and provide for the collection of reasonable fees for
 39 emergency ambulance services the governing body provides
 40 under this chapter.

41 (6) Pay the fees or dues for individual or group membership in
 42 any regularly organized volunteer emergency medical services

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association on their own behalf or on behalf of the emergency medical services personnel serving that unit of government.

SECTION 28. IC 22-11-14-2, AS AMENDED BY P.L.187-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The fire prevention and building safety commission shall:

(1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and

(2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:

- (1) name a competent operator who is to officiate at the display;
- (2) set forth a brief resume of the operator's experience;
- (3) be made in writing; and
- (4) be received with the applicable fee by the division of fire and building safety at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be located, discharged, or fired as, in the opinion of:

- (1) the chief of the fire department of the city or town in which the display is to be held; or
- (2) the:

(A) township fire chief or the fire chief of the municipality nearest the site proposed, before January 1, 2013 or

(B) county fire chief, after December 31, 2012;

in the case of a display to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person.

(d) A permit granted under this section is not transferable.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person may not possess, transport, or deliver special fireworks, except as authorized under this section.

SECTION 29. IC 22-11-14-3.5, AS ADDED BY P.L.187-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. The fire prevention and building safety

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commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal ~~or~~ fire department, township fire department, **or (after December 31, 2012) county fire department** may grant a permit to a person to sponsor a special discharge location in the municipality, ~~or~~ township, **or (after December 31, 2012) county.**

SECTION 30. IC 22-12-1-18.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18.7. "Qualified entity" means:

- (1) a volunteer fire department (as defined in IC 36-8-12-2);
- (2) the executive of a township providing fire protection under IC 36-8-13-3(a)(1); ~~or~~
- (3) a municipality providing fire protection to a township under IC 36-8-13-3(a)(2) or IC 36-8-13-3(a)(3); **or**
- (4) after, December 31, 2012, the executive of a county providing fire protection under IC 36-8-13.6.**

SECTION 31. IC 23-14-31-26, AS AMENDED BY P.L.102-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

- (1) An individual who possesses a health care power of attorney of the decedent, unless the power of attorney prohibits the individual from making plans for the disposition of the decedent's body.
- (2) The individual who was the spouse of the decedent at the time of the decedent's death.
- (3) The decedent's surviving adult children. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the crematory authority receives a written objection to the cremation from another adult child.
- (4) The decedent's surviving parent. If the decedent is survived by both parents, either parent may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from the other parent.
- (5) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree is surviving, any person of that degree may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from one (1) or more persons of the same degree.

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(6) In the case of an indigent or other individual whose final disposition is the responsibility of the state, ~~or township, or (after December 31, 2012) a county not having a consolidated city,~~ the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through (5) ~~of this section~~ are available:

(i) a public administrator, including a responsible township trustee or the trustee's designee, **or (after December 31, 2012) the county executive for a county not having a consolidated city;** or

(ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

(7) In the absence of any person under subdivisions (1) through (6), any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

SECTION 32. IC 23-14-33-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.6. "Cemetery fund" means:**

(1) the township fund; or

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(2) after December 31, 2012, the cemetery fund for a county not having a consolidated city.

SECTION 33. IC 23-14-33-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.5. As used in this chapter, "county executive" means, after December 31, 2012:

(1) the county executive of a county not having a consolidated city; or

(2) the county executive's designee who is responsible for administering this chapter for the county.

SECTION 34. IC 23-14-63-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies whenever ten (10) or more heads of families:

(1) who reside in:

(A) a township or (after December 31, 2012) a county not having a consolidated city; or

(B) the immediate vicinity of a cemetery owned by a township or (after December 31, 2012) a county not having a consolidated city; and

(2) who own lots in and whose dead relatives are buried in a cemetery owned by the township or the county not having a consolidated city (after December 31, 2012);

organize, either by themselves or with others, as a corporation for the burial of the dead and the maintenance of a cemetery.

SECTION 35. IC 23-14-63-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The persons described in section 1 of this chapter may file with the township trustee or (after December 31, 2012) the county executive a petition asking for the conveyance of the cemetery owned by the township or (after December 31, 2012) county not having a consolidated city to the corporation.

(b) The persons filing the petition under subsection (a) must give notice of the filing at least three (3) weeks before the filing in accordance with IC 5-3-1-2 by publishing a notice concerning the petition in a newspaper:

(1) that is published in the township; or

(2) if there is no newspaper published in the township, in the newspaper published nearest to the township.

SECTION 36. IC 23-14-63-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The township trustee or (after December 31, 2012) county not having a consolidated city, if satisfied that the petition is signed by a majority of the owners of lots

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in the cemetery who are residents of the township or of the immediate vicinity of the cemetery, shall convey the cemetery to the corporation formed by the petitioners.

SECTION 37. IC 23-14-63-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A corporation to which a cemetery is conveyed under section 4 of this chapter:

- (1) shall control the cemetery;
- (2) shall ornament, beautify, and improve the cemetery;
- (3) may purchase additions and sell lots in the cemetery;
- (4) may assess all lots for the care, improvement, and beautification of the cemetery;
- (5) may receive and hold in trust gifts, donations, and legacies to be devoted to the purposes referred to in subdivisions (1) through (4); and
- (6) may exercise all the powers of a corporation organized under any statute for the purpose of owning, managing, and maintaining cemeteries.

(b) All actions that the corporation takes in accordance with statutes concerning cemeteries before the cemetery is conveyed ~~by the township trustee~~ to the corporation **under section 4 of this chapter** are valid and binding on all parties involved in the actions.

SECTION 38. IC 23-14-64-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies whenever the board of directors of a cemetery association existing under any Indiana statute before March 9, 1939, determines by a majority vote to convey the real estate belonging to the association to the township **or (after December 31, 2012) county not having a consolidated city** in which the association's cemetery is located.

SECTION 39. IC 23-14-64-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter, "county executive" means, after December 31, 2012:**

- (1) the county executive of a county not having a consolidated city; or
- (2) the county executive's designee who is responsible for administering this chapter for the county.

SECTION 40. IC 23-14-64-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A township trustee **or (after December 31, 2012) the county executive** may accept a conveyance of real estate described in section 1 of this chapter. After the conveyance, the township trustee **or (after December 31, 2012) the county executive** shall maintain the cemetery as a public cemetery.

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SECTION 41. IC 23-14-64-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If a cemetery association that conveys real estate to a township **or (after December 31, 2012) county not having a consolidated city** under this chapter has endowment funds, cash, securities, or other assets, the funds, cash, securities, or other assets shall be paid over to the township trustee **or (after December 31, 2012) a county not having a consolidated city** when the real estate owned by the association is conveyed to the township **or (after December 31, 2012) a county not having a consolidated city**.

(b) ~~A township trustee who receives~~ Cash, securities, endowment funds, or other assets **received by the township trustee or (after December 31, 2012) the county executive** under subsection (a) may ~~use them~~ **be used** only:

- (1) to purchase additional land for the cemetery;
- (2) to make permanent improvements to the cemetery; or
- (3) for the upkeep and maintenance of the cemetery.

SECTION 42. IC 23-14-64-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. All expenses incurred by the trustee **or (after December 31, 2012) a county not having a consolidated city** in administering this chapter shall be paid out of the ~~township cemetery fund. of the township.~~

SECTION 43. IC 23-14-68-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. **As used in this chapter, "county executive" means, after December 31, 2012:**

- (1) **the county executive of a county not having a consolidated city; or**
- (2) **the county executive's designee who is responsible for administering this chapter for the county.**

SECTION 44. IC 23-14-68-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The trustee of each township **or (after December 31, 2012) the county executive** shall locate and maintain all the cemeteries described in section 1(a) of this chapter that are within the township **or (after December 31, 2012) county not having a consolidated city**. However, a cemetery association claiming assistance under this chapter shall furnish a verified statement of assets and liabilities to the township trustee **or (after December 31, 2012) the county executive**.

SECTION 45. IC 23-14-68-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The township **or (after December 31, 2012) the county executive** shall appropriate

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1 enough money to provide for the care, repair, and maintenance of each
 2 cemetery described in section 1(a) of this chapter that is located within
 3 the township **or (after December 31, 2012) county not having a**
 4 **consolidated city.** Funds shall be appropriated under this subsection
 5 in the same manner as other ~~township~~ appropriations **of the township**
 6 **or (after December 31, 2012) a county not having a consolidated**
 7 **city.**

8 (b) The township may levy a township cemetery tax to create a fund
 9 for maintenance of cemeteries under this chapter. If a fund has not been
 10 provided for maintenance of cemeteries under this chapter, part of the
 11 township fund may be used.

12 (c) **After December 31, 2012, a county not having a consolidated**
 13 **city may levy a county cemetery tax to create a fund for**
 14 **maintenance of cemeteries under this chapter. If a fund has not**
 15 **been provided for maintenance of cemeteries under this chapter,**
 16 **part of the county general fund may be used.**

17 SECTION 46. IC 23-14-69-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies
 19 to the following:

- 20 (1) A public cemetery that belongs to a township **or (after**
 21 **December 31, 2012) a county not having a consolidated city.**
 22 (2) An addition to a public cemetery that belongs to a township **or**
 23 **(after December 31, 2012) a county not having a consolidated**
 24 **city.**

25 SECTION 47. IC 23-14-69-2 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. This chapter does not
 27 apply to the following:

- 28 (1) A cemetery that is owned or controlled by a city, a town, or a
 29 voluntary association.
 30 (2) A cemetery that is maintained by a township **or (after**
 31 **December 31, 2012) a county not having a consolidated city**
 32 **under IC 23-14-68.**

33 SECTION 48. IC 23-14-69-2.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2009]: Sec. 2.5. As used in this chapter,
 36 "county executive" means, after December 31, 2012:

- 37 (1) the county executive of a county not having a consolidated
 38 city; or
 39 (2) the county executive's designee who is responsible for
 40 administering this chapter for the county.

41 SECTION 49. IC 23-14-69-3, AS AMENDED BY P.L.2-2008,
 42 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 3. A township trustee **or (after December 31, 2012) the county executive** shall care for and maintain each cemetery to which this chapter applies that is located in the township **or (after December 31, 2012) county not having a consolidated city**, keeping the cemeteries in a respectable condition by:

(1) destroying detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation; and

(2) removing all unsightly accumulations and debris.

SECTION 50. IC 23-14-69-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The township trustee **or (after December 31, 2012) the county executive** may accept donations of land suitable for a public cemetery if the township trustee **or (after December 31, 2012) the county executive** considers acceptance of the land to be in the best interests of the township **or (after December 31, 2012) county not having a consolidated city**.

(b) Donated land shall be:

(1) conveyed to the township **or (after December 31, 2012) county not having a consolidated city**;

(2) set apart by the trustee **or (after December 31, 2012) county not having a consolidated city** for a public cemetery; and

(3) kept in good condition and repair by the township trustee **or (after December 31, 2012) county not having a consolidated city**.

SECTION 51. IC 23-14-69-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If:

(1) no land suitable for a public cemetery is donated to a township; and

(2) if the township legislative body adopts a resolution approving the purchase;

the township executive may purchase land for the purpose of establishing a public cemetery.

(b) If no land suitable for a public cemetery is donated to a county not having a consolidated city (after December 31, 2012), the county executive, with the approval of the county fiscal body, may purchase land for the purpose of establishing a public cemetery.

~~(b)~~ (c) When land is purchased and conveyed to the township **or (after December 31, 2012) a county not having a consolidated city** under subsection (a) **or (b)**, the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.

SECTION 52. IC 23-14-69-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A public cemetery

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of a township **or (after December 31, 2012) a county not having a consolidated city** may be used by the inhabitants of the township **or (after December 31, 2012) county not having a consolidated city** for the interment of the dead. The township trustee **or (after December 31, 2012) the county executive** may prescribe regulations governing the use of the cemetery.

SECTION 53. IC 23-14-69-7, AS AMENDED BY P.L.113-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) When a township **or (after December 31, 2012) a county not having a consolidated city** acquires title to land by donation, purchase, or otherwise for a public cemetery, the trustee of the township **or (after December 31, 2012) the county executive** shall:

(1) lay out the land in lots with streets and walks;

(2) plat the land; and

(3) record the plat in the office of the recorder of the county.

(b) For recording a plat under subsection (a), the recorder shall collect the same fees as are allowed for similar recordings.

(c) The lots laid out and platted under subsection (a) must be numbered. A specific part of the lots must be:

(1) set apart; and

(2) designated on the plat;

for a potter's field.

(d) After the plat has been recorded, the township trustee **or (after December 31, 2012) the county executive** shall appoint:

(1) one (1) disinterested freeholder of the township **or (after December 31, 2012) county not having a consolidated city**; and

(2) one (1) disinterested appraiser licensed under IC 25-34.1;

who are residents of Indiana to appraise and fix the value of all the lots on the plat, except the part assigned to the potter's field under subsection (c). The appraisal shall be filed with and preserved by the township trustee **or (after December 31, 2012) the county executive**.

SECTION 54. IC 23-14-69-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The township trustee **or (after December 31, 2012) the county executive** may sell and convey the lots in a cemetery to which this chapter applies at a private sale to persons who desire to purchase them. The trustee **or (after December 31, 2012) the county executive** shall not sell a lot under this subsection at less than the value fixed for the lot under section 7 of this chapter.

(b) The proceeds of the sale of lots in a cemetery under subsection (a) shall be used to pay the expenses that the township trustee **or (after**

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1 **December 31, 2012) the county executive** may incur under this
 2 chapter for the cemetery. Any surplus shall be held as a fund for use in
 3 keeping the cemetery in repair.

4 (c) The township trustee **or (after December 31, 2012) the county**
 5 **executive** shall keep an accurate account of:

6 (1) the money received by the township trustee **or (after**
 7 **December 31, 2012) the county executive** for the purpose of
 8 keeping the cemetery in repair; and

9 (2) the sums that the township trustee **or (after December 31,**
 10 **2012) the county executive** has paid out, and for which the
 11 trustee **or (after December 31, 2012) the county executive** has
 12 taken vouchers.

13 SECTION 55. IC 23-14-69-9 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. All expenses
 15 incurred by the township trustee **or (after December 31, 2012) the**
 16 **county executive** for administering this chapter shall be paid out of the
 17 township cemetery fund. ~~of the township.~~

18 SECTION 56. IC 23-14-70-1.5 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2009]: Sec. 1.5. **As used in this chapter,**
 21 **"county executive" means, after December 31, 2012:**

22 (1) the county executive of a county not having a consolidated
 23 city; or

24 (2) the county executive's designee who is responsible for
 25 administering this chapter for the county.

26 SECTION 57. IC 23-14-70-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The county auditor
 28 shall distribute the interest accrued on any cemetery fund or funds
 29 received under section 1 of this chapter on the last Monday of January
 30 of each year to the following person or persons:

31 (1) The trustee of the township **or (after December 31, 2012) the**
 32 **county executive** in which an abandoned or unincorporated
 33 cemetery is located.

34 (2) The trustee of the township lying on the east or south of the
 35 cemetery if the cemetery is located on a county boundary or a
 36 township boundary.

37 (3) The treasurer of the board of directors of an incorporated
 38 cemetery.

39 SECTION 58. IC 23-14-70-4 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A township
 41 trustee, **(after December 31, 2012) the county executive, or the**
 42 treasurer of the board of directors of an incorporated cemetery who

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receives a distribution under section 3 of this chapter shall make a receipt or voucher for any money paid out.

(b) A receipt or voucher made under subsection (a) must state:

- (1) the amount paid out;
- (2) the purpose for which the money was expended; and
- (3) the fund from which the money came.

(c) The receipts and vouchers made under subsection (a) shall be:

- (1) filed with the county auditor before January 2 of each year; and
- (2) presented to the board of commissioners for examination and approval at the January meeting of the board of commissioners.

SECTION 59. IC 23-14-74-1, AS AMENDED BY P.L.2-2008, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A corporation, organization, association, or individual that owns and has the control and management of a public cemetery located in a township **or (after December 31, 2012) a county not having a consolidated city** shall keep the public cemetery in a respectable condition by destroying detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation.

SECTION 60. IC 23-14-75-1, AS AMENDED BY P.L.163-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to a city, town, ~~or~~ township, **or (after December 31, 2012) county not having a consolidated city** that:

- (1) owns a cemetery that has been in existence for at least thirty (30) years; or
- (2) desires to own a public cemetery.

SECTION 61. IC 23-14-75-2, AS AMENDED BY P.L.163-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. If land has not been appropriated or set apart by the owners by platting for a public cemetery and it is necessary to purchase real estate for the cemetery:

- (1) the legislative body of the city, ~~or~~ town, **or (after December 31, 2012) county not having a consolidated city**; or
- (2) the executive of the township;

has the power of eminent domain to condemn and appropriate the land for cemetery purposes under proceedings provided by statute.

SECTION 62. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each

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year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, after December 31, 2012, the duties and obligations of a township trustee under this chapter are the responsibility of the county executive in the case of a county not having a consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township **or (after December 31, 2012) county not having a consolidated city.** If an agent or a tenant of the owner does not reside in the township **or (after December 31, 2012) county not having a consolidated city,** the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, county highway superintendent, or Indiana department of transportation shall immediately:

- (1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and
- (2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, county highway superintendent, ~~or~~ Indiana department of transportation, **or (after December 31, 2012) county executive of a county not having a consolidated city** having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the

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1 same manner as road taxes are collected. The treasurer may not issue
 2 a receipt for road taxes unless the costs entered on the duplicates are
 3 paid in full at the same time the road taxes are paid. If the costs are not
 4 paid when due, the costs shall become delinquent, bear the same
 5 interest, be subject to the same penalties, and be collected at the same
 6 time and in the same manner as other unpaid and delinquent taxes.

7 SECTION 63. IC 32-26-9-0.6 IS ADDED TO THE INDIANA
 8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2009]: **Sec. 0.6. As used in this chapter,**
 10 **"county executive" means, after December 31, 2012:**

11 (1) **the county executive of a county not having a consolidated**
 12 **city; or**

13 (2) **the county executive's designee who is responsible for**
 14 **administering this chapter for the county.**

15 SECTION 64. IC 32-26-9-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The owner of a
 17 property that:

18 (1) is located outside;

19 (2) abuts; or

20 (3) is adjacent to;

21 the boundary of the corporate limits of a town or city shall separate the
 22 owner's property from adjoining properties by a partition fence
 23 constructed upon the line dividing or separating the properties
 24 regardless of when the properties were divided.

25 (b) Except as otherwise provided in this chapter, and if a division of
 26 the partition fence has not been made between the property owners for
 27 the building, repairing, or rebuilding of the partition fence:

28 (1) for a partition fence built along a property line than runs from
 29 north to south:

30 (A) the owner whose property lies to the east of the fence shall
 31 build the north half of the fence; and

32 (B) the owner whose land lies to the west of the fence shall
 33 build the south half of the fence; and

34 (2) for a partition fence built along a property line that runs from
 35 east to west:

36 (A) the owner whose property lies north of the fence shall
 37 build the west half of the fence; and

38 (B) the owner whose property lies to the south of the fence
 39 shall build the east half of the fence.

40 (c) Notwithstanding subsection (b), if either property owner has
 41 constructed one-half (1/2) of a partition fence that is not the portion
 42 required under subsection (b) and has maintained that portion of the

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1 partition fence for a period of not less than five (5) years, the property
2 owner may continue to maintain the portion of the fence.

3 (d) If a property owner fails to build, rebuild, or repair a partition
4 fence after receiving notice under this chapter, the township trustee of
5 the township in which the property is located **or (after December 31,**
6 **2012) the county executive** shall build, rebuild, or repair the fence as
7 provided under this chapter.

8 SECTION 65. IC 32-26-9-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A partition fence
10 shall be built, rebuilt, and kept in repair at the cost of the property
11 owners whose properties are enclosed or separated by the fences
12 proportionately according to the number of rods or proportion of the
13 fence the property owner owns along the line of the fence, whether the
14 property owner's title is a fee simple or a life estate.

15 (b) If a property owner fails or refuses to compensate for building,
16 rebuilding, or repairing the property owner's portion of a partition
17 fence, another property owner who is interested in the fence, after
18 having built, rebuilt, or repaired the property owner's portion of the
19 fence, shall give to the defaulting property owner or the defaulting
20 property owner's agent or tenant twenty (20) days notice to build,
21 rebuild, or repair the defaulting property owner's portion of the fence.
22 If the defaulting property owner or the defaulting property owner's
23 agent or tenant fails to build, rebuild, or repair the fence within twenty
24 (20) days, the complaining property owner shall notify the township
25 trustee of the township **or (after December 31, 2012) the county**
26 **executive** in which the properties are located of the default.

27 (c) This subsection applies if the fence sought to be established,
28 rebuilt, or repaired is on a township line. Unless disqualified under
29 subsection (h), the complaining property owner shall notify the trustee
30 of the township **or (after December 31, 2012) the county executive**
31 in which the property of the complaining property owner is located of
32 the default under subsection (b), and the trustee **or (after December**
33 **31, 2012) the county executive** has jurisdiction in the matter.

34 (d) The township trustee **or (after December 31, 2012) the county**
35 **executive** who receives a complaint under this section shall:

36 (1) estimate the costs for building, rebuilding, or repairing the
37 partition fence; and

38 (2) within a reasonable time after receiving the complaint, make
39 out a statement and notify the defaulting property owner of the
40 probable cost of building, rebuilding, or repairing the fence.

41 If twenty (20) days after receiving a notice under this subsection the
42 defaulting property owner has not built, rebuilt, or repaired the fence,

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the trustee shall build or repair the fence. The trustee **or (after December 31, 2012) the county executive** may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee of a township is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

(1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.

(2) A straight rail fence four and one-half (4 1/2) feet high.

(3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee **or (after December 31, 2012) the county executive** shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee **or (after December 31, 2012) the county executive** is:

(1) related to any of the interested property owners; or

(2) an interested property owner;

~~the trustee of any other township who resides nearest to where the fence is located~~ **another trustee or county executive** shall act under this chapter.

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition

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fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The:

(1) township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township; or

(2) (after December 31, 2012) county executive, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the county;

who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars (\$2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee **or (after December 31, 2012) the county executive** shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 66. IC 32-26-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As soon as the township trustee **or (after December 31, 2010) the county executive**

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has had a fence built, rebuilt, or repaired under this chapter, the trustee **or (after December 31, 2012) the county executive** shall make out a certified statement in triplicate of the actual cost incurred by the trustee **or (after December 31, 2012) the county executive** in the building, rebuilding, or repairing the fence. One (1) copy must be handed to or mailed to the property owner affected by the work, one (1) copy must be retained by the trustee as a record for the township, and one (1) copy must be filed in the auditor's office of the county in which the fence is located and in which the property of the property owner affected by the work is located. At the same time the trustee shall also file with the county auditor a claim against the county, for the amount shown in the statement filed with the county auditor.

(b) The county auditor shall:

- (1) examine the claims and statement as other claims are examined; and
- (2) present the claims and statements to the board of county commissioners at the next regular meeting.

Unless there is an apparent error in the statement or claim, the board of county commissioners shall make allowance, and the county auditor shall issue a warrant for the amount claimed to the township trustee submitting the claim out of the county general fund without an appropriation being made by the county council.

(c) The amount paid out of the county general fund under subsection (b) **or (after December 31, 2012) the amount incurred by a county, in the case of a county not having a consolidated city, for the work** shall be:

- (1) placed by the county auditor on the tax duplicate against the property of the property owner affected by the work;
- (2) collected as taxes are collected; and
- (3) when collected, paid into the county general fund.

SECTION 67. IC 36-1-8-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. (a) This section does not apply to a township in a county having a consolidated city.**

(b) After June 30, 2009, a township may not enter into a contract with a term that extends beyond December 31, 2012, unless the contract has been approved by the fiscal body of the county.

SECTION 68. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 21. County Fire Protection Duties

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1 **Sec. 1. This chapter applies only to a county not having a**
 2 **consolidated city.**

3 **Sec. 2. After December 31, 2012, the county executive is**
 4 **responsible for providing fire protection in unincorporated areas**
 5 **of the county in a manner authorized by IC 36-8-13.6.**

6 **Sec. 3. After December 31, 2012, the county council may adopt**
 7 **an ordinance to provide for the imposition and collection of fees for**
 8 **ambulance services provided by the county fire department.**

9 **SECTION 69. IC 36-2-22 IS ADDED TO THE INDIANA CODE**
 10 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 11 **JULY 1, 2009]:**

12 **Chapter 22. County Service Districts**

13 **Sec. 1. As used in this chapter, "plan" refers to any of the**
 14 **following:**

15 **(1) A plan for the provision of township assistance prepared**
 16 **under IC 12-20-1.5-5.**

17 **(2) A public safety plan adopted or prepared under**
 18 **IC 36-8-13.7-5.**

19 **Sec. 2. As used in this chapter, "qualified service" refers to any**
 20 **of the following provided by a county after 2012:**

21 **(1) County township assistance under IC 12-20-1.5.**

22 **(2) Public safety under a plan adopted or prepared under**
 23 **IC 36-8-13.7.**

24 **Sec. 3. (a) Subject to subsection (b) and sections 4 and 7 of this**
 25 **chapter, if a plan authorizes the provision of a qualified service as**
 26 **permitted under this chapter, the county fiscal body may adopt an**
 27 **ordinance to provide the qualified service after 2012 at different**
 28 **levels of service in two (2) or more parts of the county. Each of the**
 29 **parts of the county designated in the ordinance under this section**
 30 **is a service district.**

31 **(b) A part of the county designated in an ordinance under**
 32 **subsection (a) may be composed of noncontiguous territory.**

33 **Sec. 4. If a plan provides for services as described in section 3 of**
 34 **this chapter, the plan must include findings that the application of**
 35 **different levels of the qualified service in the county is reasonably**
 36 **related to differences between or among the service districts in one**
 37 **(1) or more of the following:**

38 **(1) Topography.**

39 **(2) Patterns of land use.**

40 **(3) Population density.**

41 **(4) Any other factor that affects the provision of the qualified**
 42 **service in a particular part of the county.**

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Sec. 5. Subject to sections 6 and 7 of this chapter, for one (1) or more years following the first year in which a county provides a qualified service at different levels in service districts under section 3 of this chapter, the legislative body of the county may by the adoption of an ordinance determine to:

(1) expand a service district in which the qualified service is provided at a higher level; or

(2) apply the same level of qualified service to the entire county.

Sec. 6. If the legislative body adopts an ordinance under section 3 or 5(1) of this chapter:

(1) the county shall apply the county:

(A) ad valorem property tax rate; or

(B) fee;

that funds the qualified service in different amounts in the service districts; and

(2) the different amounts must be reasonably calculated to be proportional to the different funding requirements for the service districts.

Sec. 7. The legislative body of a county may not, for any year following the first year in which the county provides a qualified service in service districts under section 3 or 5(1) of this chapter, contract a service district in which a higher level of qualified service is provided.

Sec. 8. A county must:

(1) publish notice of a public hearing on a proposed ordinance under this chapter in the manner prescribed by IC 5-3-1; and

(2) hold the public hearing before adoption of the ordinance.

SECTION 70. IC 36-6-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 1.1. Dissolution of Township Governments

Sec. 1. This chapter applies only to a county not having a consolidated city.

Sec. 2. Effective January 1, 2013, all township governments in the county are abolished, and the duties and powers of the township governments are transferred under section 3 of this chapter. Each township retains its geographical boundaries and its name.

Sec. 3. The following occur on January 1, 2013:

(1) Each office of township trustee is abolished.

(2) Each township board is abolished.

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(3) The functions, duties, and responsibilities of the township trustee are transferred to the county executive, unless otherwise expressly provided by statute.

(4) The functions, duties, and responsibilities of the township board are transferred to the county council, unless otherwise expressly provided by statute.

Sec. 4. (a) On January 1, 2013, all:

(1) assets;

(2) debts;

(3) property rights;

(4) equipment;

(5) records;

(6) personnel (except otherwise provided for by statute); and

(7) contracts;

connected with the operations of a township are transferred to the county.

(b) If, as of December 31, 2012, a township has a local board for the 1937 firefighters' pension fund or the 1977 police officers' and firefighters' pension and disability fund, that local board is dissolved on January 1, 2013, and the powers, duties, and responsibilities of the local board under IC 36-8-7 or IC 36-8-8, respectively, are assumed by the county's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the county may adopt an ordinance to adjust the membership of the county's local board to reflect the dissolution of the township's local board.

(c) A county shall levy taxes (within the county's maximum permissible ad valorem property tax levy limit) as necessary to provide for the payment of pension benefits:

(1) to members of the 1937 firefighters' pension fund; and

(2) for which, before the dissolution of township government under this chapter, the local board of a township in the county was responsible.

Sec. 5. (a) The balance on January 1, 2013, in a debt service fund of a township:

(1) is transferred to the county in which the township is located; and

(2) shall be used by the county to pay indebtedness or lease rentals for which the fund was established.

(b) Any balance remaining in the fund after all payments for

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1 indebtedness or lease rentals required under this section have been
2 made is transferred to the county general fund.

3 Sec. 6. (a) On January 1, 2013, the balance in a township's
4 general fund attributable to the duties of the township trustee
5 under IC 36-6-4-3 is transferred to the county.

6 (b) The department of local government finance shall determine
7 the amounts to be transferred under subsection (a).

8 (c) IC 36-1-8-5 does not apply to a balance referred to in
9 subsection (a).

10 Sec. 7. (a) The balance in a township's township assistance fund
11 attributable to the duties of the township trustee on January 1,
12 2013:

13 (1) is transferred to the county; and

14 (2) shall be deposited in the county assistance fund established
15 under IC 12-20-1-6.

16 (b) The department of local government finance shall determine
17 the amounts to be transferred under subsection (a).

18 (c) IC 36-1-8-5 does not apply to a balance referred to in this
19 section.

20 Sec. 8. (a) The balance on January 1, 2013, in a township's
21 cumulative building and equipment fund established under
22 IC 36-8-14-2 for fire protection and related services:

23 (1) is transferred to the county in which the township is
24 located; and

25 (2) shall be used by the county to pay any indebtedness or
26 lease rentals related to fire protection services due after
27 December 31, 2012.

28 (b) Any balance remaining in the fund after all payments for
29 indebtedness or lease rentals required under this section have been
30 made is transferred to the county cumulative building and
31 equipment fund established under IC 36-8-14-2.

32 Sec. 9. (a) Effective January 1, 2013, the county shall assume,
33 defease, pay, or refund all indebtedness of a township in the
34 county. The county may levy property taxes to pay township
35 indebtedness or lease rental obligations incurred by a township
36 only in the geographic area of the township that originally issued
37 the debt or entered into the lease rental agreement. The former
38 territory of the township comprises a taxing district for the
39 payment of township indebtedness existing at the time of the
40 abolition or alteration.

41 (b) Notwithstanding any other law, to assume, defease, pay, or
42 refund all or a part of the indebtedness or lease rental obligations

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described in subsection (a), the county is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness or lease rental obligations.

(c) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness described in subsection (a); or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking with respect to indebtedness described in subsection (a);

remain the same, although the powers, duties, agreements, and liabilities of the townships have been transferred to the county, and the county shall be considered to have assumed all those powers, duties, agreements, and liabilities.

Sec. 10. Beginning January 1, 2013, notwithstanding any other law to the contrary, a township's monthly distributive share of any county option income taxes is reduced to zero (0), and those county option income taxes shall instead be distributed as additional distributive shares to the county.

Sec. 11. (a) This section does not apply to the maximum permissible ad valorem property tax levy for a county's firefighting fund as determined under IC 6-1.1-18.5-18.5. Except as provided in subsection (b), the department of local government finance shall increase the county's maximum permissible property tax levy for taxes first due and payable in 2013 by an amount equal to the total combined maximum property permissible property tax levies for all townships in the county for property taxes first due and payable in 2012.

(b) Notwithstanding subsection (a), the department of local government finance may decrease the maximum permissible ad valorem property tax levy determined under this section for property taxes first due and payable in 2013 to reflect any cost savings associated with the transfer of duties from townships to the county.

SECTION 71. IC 36-8-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) This section also applies to all towns and townships that have full-time, paid police or fire departments **and (after December 31, 2012) counties that have full-time, paid fire departments.** For purposes of this section, the appropriate appointing authority of a town, ~~or~~ township, **or (after December 31, 2012) county** is considered the safety board of a town, ~~or~~ township, **or county.** In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town

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for police department purposes.

(b) Except as provided in subsection (m), a member of the police or fire department holds office or grade until the member is dismissed or demoted by the safety board. Except as provided in subsection (n), a member may be disciplined by demotion, dismissal, reprimand, forfeiture, or suspension upon either:

- (1) conviction in any court of any crime; or
- (2) a finding and decision of the safety board that the member has been or is guilty of any one (1) or more of the following:
 - (A) Neglect of duty.
 - (B) A violation of rules.
 - (C) Neglect or disobedience of orders.
 - (D) Incapacity.
 - (E) Absence without leave.
 - (F) Immoral conduct.
 - (G) Conduct injurious to the public peace or welfare.
 - (H) Conduct unbecoming an officer.
 - (I) Another breach of discipline.

The safety board may not consider the political affiliation of the member in making a decision under this section. If a member is suspended or placed on administrative leave under this subsection, the member is entitled to the member's allowances for insurance benefits to which the member was entitled before being suspended or placed on administrative leave. In addition, the local unit may provide the member's allowances for any other fringe benefits to which the member was entitled before being suspended or placed on administrative leave.

(c) Before a member of a police or fire department may be suspended in excess of five (5) days without pay, demoted, or dismissed, the safety board shall offer the member an opportunity for a hearing. If a member desires a hearing, the member must request the hearing not more than five (5) days after the notice of the suspension, demotion, or dismissal. Written notice shall be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The hearing conducted under this subsection shall be held not more than thirty (30) days after the hearing is requested by the member, unless a later date is mutually agreed upon by the parties. The notice must state:

- (1) the time and place of the hearing;
- (2) the charges against the member;
- (3) the specific conduct that comprises the charges;
- (4) that the member is entitled to be represented by counsel;

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(5) that the member is entitled to call and cross-examine witnesses;

(6) that the member is entitled to require the production of evidence; and

(7) that the member is entitled to have subpoenas issued, served, and executed in the county where the unit is located.

If the corporation counsel or city attorney is a member of the safety board of a city, the counsel or attorney may not participate as a safety board member in a disciplinary hearing concerning a member of either department. The safety board shall determine if a member of the police or fire department who is suspended in excess of five (5) days shall continue to receive the member's salary during the suspension.

(d) Upon an investigation into the conduct of a member of the police or fire department, or upon the trial of a charge preferred against a member of either department, the safety board may compel the attendance of witnesses, examine them under oath, and require the production of books, papers, and other evidence at a meeting of the board. For this purpose, the board may issue subpoenas and have them served and executed in any part of the county where the unit is located. If a witness refuses to testify or to produce books or papers in the witness's possession or under the witness's control, IC 36-4-6-21 controls to the extent applicable. The proper court may compel compliance with the order by attachment, commitment, or other punishment.

(e) The reasons for the suspension, demotion, or dismissal of a member of the police or fire department shall be entered as specific findings of fact upon the records of the safety board. A member who is suspended for a period exceeding five (5) days, demoted, or dismissed may appeal the decision to the circuit or superior court of the county in which the unit is located. However, a member may not appeal any other decision.

(f) An appeal under subsection (e) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in concise manner the general nature of the charges against the member, the decision of the safety board, and a demand for the relief asserted by the member. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs adjudged against the plaintiff. The bond must be approved as bonds for costs are approved in other cases. The unit must be named as the sole defendant, and the plaintiff shall have a summons issued as in other cases against the unit. Neither the safety board nor the members of it may be made parties defendant to

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the complaint, but all are bound by service upon the unit and the judgment rendered by the court.

(g) In an appeal under subsection (e), no pleading is required by the unit to the complaint, but the allegations are considered denied. The unit may file a motion to dismiss the appeal for failure to perfect it within the time and in the manner required by this section. If more than one (1) person was included in the same charges and in the same decision of dismissal by the safety board, then one (1) or more of the persons may join as plaintiffs in the same complaint, but only the persons that appeal from the decision are affected by it. The decision of the safety board is final and conclusive upon all persons not appealing. The decision appealed from is not stayed or affected pending the final determination of the appeal, but remains in effect unless modified or reversed by the final judgment of the court.

(h) A decision of the safety board is considered prima facie correct, and the burden of proof is on the party appealing. All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the safety board was made. The charges are considered to be denied by the accused person. Within ten (10) days after the service of summons, the safety board shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the safety board before the appeal is filed, if requested. Each party may produce evidence relevant to the issues that it desires, and the court shall review the record and decision of the safety board upon appeal.

(i) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the safety board appealed from should in all things be affirmed, its judgment should state that, and judgment for costs shall be rendered against the party appealing. If the court finds that the decision of the safety board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

(1) reverse the decision of the safety board; or

(2) order the decision of the safety board to be modified.

(j) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the safety board, which shall conform its decisions and records to the order and

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1 judgment of the court. If the decision is reversed or modified, then the
 2 safety board shall pay to the party entitled to it any salary or wages
 3 withheld from the party pending the appeal and to which the party is
 4 entitled under the judgment of the court.

5 (k) Either party shall be allowed a change of venue from the court
 6 or a change of judge in the same manner as such changes are allowed
 7 in civil cases. The Indiana Rules of Trial Procedure govern in all
 8 matters of procedure upon the appeal that are not otherwise provided
 9 for by this section.

10 (l) An appeal takes precedence over other pending litigation and
 11 shall be tried and determined by the court as soon as practical.

12 (m) Except as provided in IC 36-5-2-13, the executive may reduce
 13 in grade any member of the police or fire department who holds an
 14 upper level policy making position. The reduction in grade may be
 15 made without adhering to the requirements of subsections (b) through
 16 (l). However, a member may not be reduced in grade to a rank below
 17 that which the member held before the member's appointment to the
 18 upper level policy making position.

19 (n) If the member is subject to criminal charges, the board may
 20 place the member on administrative leave until the disposition of the
 21 criminal charges in the trial court. Any other action by the board is
 22 stayed until the disposition of the criminal charges in the trial court. An
 23 administrative leave under this subsection may be with or without pay,
 24 as determined by the board. If the member is placed on leave without
 25 pay, the board, in its discretion, may award back pay if the member is
 26 exonerated in the criminal matter.

27 SECTION 72. IC 36-8-3-4.1 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.1. (a) This section
 29 also applies to all towns and townships that have full-time, paid police
 30 or fire departments **and, after December 31, 2012, counties that have**
 31 **full-time, paid fire departments.** For purposes of this section, the
 32 appropriate appointing authority of a town, ~~or~~ township, **or county** is
 33 considered the safety board of ~~a the town, or township, or county.~~ In
 34 a town with a board of metropolitan police commissioners, that board
 35 is considered the safety board of the town.

36 (b) In addition to the disciplinary powers of the safety board, the
 37 chief of the department may, without a hearing, reprimand or suspend
 38 without pay a member, including a police radio or signal alarm operator
 39 or a fire alarm operator, for a maximum of five (5) working days. For
 40 the purposes of this section, eight (8) hours of paid time constitutes one
 41 (1) working day. If a chief reprimands a member in writing or suspends
 42 a member, the chief shall, within forty-eight (48) hours, notify the

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board in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the board review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the board may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 4(c) of this chapter. If the decision is reversed, the member who was suspended is entitled to any wages withheld as a result of the suspension.

SECTION 73. IC 36-8-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. Members of the safety board and members of any township, town, or city (including a consolidated city) police department, fire department (**including, after December 31, 2012, a county fire department**), or volunteer fire department (as defined by IC 36-8-12-2) may:

- (1) be candidates for elective office and serve in that office if elected;
- (2) be appointed to any office and serve in that office if appointed; and
- (3) as long as they are not in uniform and not on duty, solicit votes and campaign funds and challenge voters for the office for which they are candidates.

SECTION 74. IC 36-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This chapter applies to each municipality or township that has a full-time paid police or fire department **and, after December 31, 2012, to each county that has a full-time, paid fire department**. A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. **A county may exercise the power of establishing a merit system for the county's fire department under this chapter or by ordinance adopted under IC 36-1-4-14.** A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

- (1) by ordinance under IC 36-1-4-14, except as provided by subsection (e);
- (2) by resolution under IC 36-1-4-14, except as provided by

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subsection (f); or

(3) by a prior statute, except as provided by subsection (b).

(b) If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5 **(before their repeal)**, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and

(2) except for a member of a fire department having a merit system established under IC 19-1-37.5 **(before its repeal)**, not be an active member of a police or fire department or agency.

(c) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (b), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection (b).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(d) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (b), the city legislative body shall, before July 1, 1983, pass an ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(e) An ordinance adopted under IC 36-1-4-14 to establish a police

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1 or fire merit system must include a provision under which the
 2 commission, or governing board of the merit system, has at least
 3 one-third (1/3) of its members elected by the active members of the
 4 department as prescribed by section 8 of this chapter. Each elected
 5 commission member must be a person of good moral character who is
 6 not an active member of a police or fire department or agency. If an
 7 ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the
 8 ordinance must be amended to include this requirement.

9 (f) This chapter does not prevent a township or other unit that has
 10 adopted a merit system under section 3 of this chapter from later
 11 amending or deleting any provisions of the merit system contained in
 12 this chapter. However, the merit system must include a provision under
 13 which the commission has at least one-third (1/3) of its members
 14 elected by the active members of the department, as set forth in section
 15 8 of this chapter and a provision that incorporates the requirements of
 16 section 6(a) of this chapter. This subsection does not require the
 17 legislative body to establish a new merit system when it exercises its
 18 power to amend under this subsection.

19 SECTION 75. IC 36-8-7-1, AS AMENDED BY P.L.227-2005,
 20 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2009]: Sec. 1. (a) This chapter applies to pension benefits for
 22 members of fire departments hired before May 1, 1977, in units for
 23 which a 1937 fund was established before May 1, 1977.

24 (b) A firefighter with twenty (20) years of service is covered by this
 25 chapter and not by IC 36-8-8 if the firefighter:

- 26 (1) was hired before May 1, 1977;
- 27 (2) did not convert under IC 19-1-36.5-7 (repealed September 1,
- 28 1981); and
- 29 (3) is rehired after April 30, 1977, by the same employer.

30 (c) A firefighter is covered by this chapter and not by IC 36-8-8 if
 31 the firefighter:

- 32 (1) was hired before May 1, 1977;
- 33 (2) did not convert under IC 19-1-36.5-7 (repealed September 1,
- 34 1981);
- 35 (3) was rehired after April 30, 1977, but before February 1, 1979;
- 36 and
- 37 (4) was made, before February 1, 1979, a member of a 1937 fund.

38 (d) A firefighter who:

- 39 (1) is covered by this chapter before a consolidation under
- 40 IC 36-3-1-6.1; and
- 41 (2) becomes a member of a fire department of a consolidated city
- 42 under IC 36-3-1-6.1;

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is covered by this chapter after the effective date of the consolidation, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

(e) A firefighter who:

(1) as of December 31, 2012, is a member of the 1937 fund as a firefighter with a township fire department, fire protection territory, or fire protection district within a county; and

(2) after the dissolution of township government under IC 36-6-1.1 becomes a member of the county fire department; is covered by this chapter after the firefighter becomes a member of the county fire department, and the firefighter's service as a member of a township fire department, fire protection territory, or fire protection district that was covered under this chapter before January 1, 2013, is considered active service under this chapter.

SECTION 76. IC 36-8-8-1, AS AMENDED BY P.L.227-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1, provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service

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under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; ~~and~~

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1; **and**

(9) a full-time, fully paid firefighter who:

(A) as of December 31, 2012, is a member of the 1977 fund as a firefighter with a township fire department, fire protection territory, or fire protection district within a county; and

(B) after the dissolution of township government under IC 36-6-1.1 becomes a member of the county fire department;

except as provided by section 7 of this chapter.

SECTION 77. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) **Except as provided in subdivision (3),** for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(3) This subdivision does not apply to a township in a county having a consolidated city. For a township that established a 1937 fund for its firefighters, "local board" after December 31, 2012, means the local board of the county.

~~(3)~~ **(4)** For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.

~~(4)~~ **(5)** For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a

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1 local board shall be composed in the same manner described in
 2 IC 36-8-6-2(b). However, if there is not a retired member of the
 3 department, no one shall be appointed to that position until such time
 4 as there is a retired member.

5 (c) If a unit did not establish a 1937 fund for its firefighters, a local
 6 board shall be composed in the same manner described in
 7 IC 36-8-7-3(b). However, if there is not a retired member of the
 8 department, no one shall be appointed to that position until such time
 9 as there is a retired member.

10 SECTION 78. IC 36-8-8-7, AS AMENDED BY P.L.1-2006,
 11 SECTION 575, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Except as provided in
 13 subsections (d), (e), (f), (g), (h), (k), (l), ~~and~~ (m), **and (n)**:

14 (1) a police officer; or

15 (2) a firefighter;

16 who is less than thirty-six (36) years of age and who passes the baseline
 17 statewide physical and mental examinations required under section 19
 18 of this chapter shall be a member of the 1977 fund and is not a member
 19 of the 1925 fund, the 1937 fund, or the 1953 fund.

20 (b) A police officer or firefighter with service before May 1, 1977,
 21 who is hired or rehired after April 30, 1977, may receive credit under
 22 this chapter for service as a police officer or firefighter prior to entry
 23 into the 1977 fund if the employer who rehires the police officer or
 24 firefighter chooses to contribute to the 1977 fund the amount necessary
 25 to amortize the police officer's or firefighter's prior service liability over
 26 a period of not more than forty (40) years, the amount and the period
 27 to be determined by the PERF board. If the employer chooses to make
 28 the contributions, the police officer or firefighter is entitled to receive
 29 credit for the police officer's or firefighter's prior years of service
 30 without making contributions to the 1977 fund for that prior service. In
 31 no event may a police officer or firefighter receive credit for prior years
 32 of service if the police officer or firefighter is receiving a benefit or is
 33 entitled to receive a benefit in the future from any other public pension
 34 plan with respect to the prior years of service.

35 (c) Except as provided in section 18 of this chapter, a police officer
 36 or firefighter is entitled to credit for all years of service after April 30,
 37 1977, with the police or fire department of an employer covered by this
 38 chapter.

39 (d) A police officer or firefighter with twenty (20) years of service
 40 does not become a member of the 1977 fund and is not covered by this
 41 chapter, if the police officer or firefighter:

42 (1) was hired before May 1, 1977;

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(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the

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1 1977 fund under this subsection is subject to sections 18 and 21 of this
2 chapter.

3 (h) A police officer or firefighter does not become a member of the
4 1977 fund and is not covered by this chapter if the individual was
5 appointed as:

6 (1) a fire chief under a waiver under IC 36-8-4-6(c); or

7 (2) a police chief under a waiver under IC 36-8-4-6.5(c);
8 unless the executive of the unit requests that the 1977 fund accept the
9 individual in the 1977 fund and the individual previously was a
10 member of the 1977 fund.

11 (i) A police matron hired or rehired after April 30, 1977, and before
12 July 1, 1996, who is a member of a police department in a second or
13 third class city on March 31, 1996, is a member of the 1977 fund.

14 (j) A park ranger who:

15 (1) completed at least the number of weeks of training at the
16 Indiana law enforcement academy or a comparable law
17 enforcement academy in another state that were required at the
18 time the park ranger attended the Indiana law enforcement
19 academy or the law enforcement academy in another state;

20 (2) graduated from the Indiana law enforcement academy or a
21 comparable law enforcement academy in another state; and

22 (3) is employed by the parks department of a city having a
23 population of more than one hundred twenty thousand (120,000)
24 but less than one hundred fifty thousand (150,000);

25 is a member of the fund.

26 (k) Notwithstanding any other provision of this chapter, a police
27 officer or firefighter:

28 (1) who is a member of the 1977 fund before a consolidation
29 under IC 36-3-1-5.1 or IC 36-3-1-6.1;

30 (2) whose employer is consolidated into the consolidated law
31 enforcement department or the fire department of a consolidated
32 city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

33 (3) who, after the consolidation, becomes an employee of the
34 consolidated law enforcement department or the consolidated fire
35 department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

36 is a member of the 1977 fund without meeting the requirements under
37 sections 19 and 21 of this chapter.

38 (l) Notwithstanding any other provision of this chapter, if:

39 (1) before a consolidation under IC 8-22-3-11.6, a police officer
40 or firefighter provides law enforcement services or fire protection
41 services for an entity in a consolidated city;

42 (2) the provision of those services is consolidated into the law

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enforcement department or fire department of a consolidated city;
and

(3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) Notwithstanding any other provision of this chapter, a firefighter who:

(1) as of December 31, 2012, is a member of the 1977 fund as a firefighter with a township fire department, fire protection territory, or fire protection district within a county; and

(2) after the dissolution of township government under IC 36-6-1.1 becomes a member of the county fire department;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter. A firefighter described in this subsection is entitled to receive credit for all years of service as a member of the 1977 fund before becoming a member of the county fire department.

~~(m)~~ **(n)** A police officer or firefighter who is a member of the 1977 fund under subsection (k), ~~or~~ (l), **or (m)** may not be:

(1) retired for purposes of section 10 of this chapter; or

(2) disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation.

SECTION 79. IC 36-8-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **A fire protection district may not be established after June 30, 2009.** A county legislative body may establish fire protection districts for any of the following purposes:

(1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the district.

(2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.

(3) Other purposes or functions related to fire protection and fire prevention.

(b) Any area may be established as a fire protection district, but one (1) part of a district may not be completely separate from another part. A municipality may be included in a district, but only if it consents by ordinance, unless a majority of the freeholders of the municipality have

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petitioned to be included in the district.

(c) Except as provided in subsection (d), the territory of a district may consist of:

- (1) one (1) or more townships and parts of one (1) or more townships in the same county; or
- (2) all of the townships in the same county.

The boundaries of a district need not coincide with those of other political subdivisions.

(d) The territory of a district may consist of a municipality that is located in more than one (1) county.

(e) The dissolution of township government under IC 36-6-1.1 and the transfer of fire protection responsibilities to counties under IC 36-2-21 and IC 36-8-13.6 (effective January 1, 2013) do not terminate a fire protection district in existence under this chapter as of December 31, 2012. On January 1, 2013, a county not having a consolidated city shall assume the powers, duties, rights, and obligations under this chapter of each township in the county participating in a district.

SECTION 80. IC 36-8-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) The board:

- (1) has the same powers and duties as a township executive **(before January 1, 2013) or county executive (after December 31, 2012)** with respect to fire protection functions, including those duties and powers prescribed by IC 36-8-13 **(before January 1, 2013), or IC 36-8-13.6 (after December 31, 2012)**, although all cooperative and joint actions permitted by that chapter must be undertaken according to this chapter;
- (2) has the same powers and duties as a township executive **(before January 1, 2013) or county executive (after December 31, 2012)** relative to contracting with volunteer firefighting companies, as prescribed by IC 36-8-12, ~~and~~ IC 36-8-13 **(before January 1, 2013), or IC 36-8-13.6 (after December 31, 2012);**
- (3) shall appoint, fix the compensation, and prescribe the duties of a fiscal officer, secretarial staff, persons performing special and temporary services or providing legal counsel, and other personnel considered necessary for the proper functioning of the district; however, a person appointed as fiscal officer must be bonded by good and sufficient sureties in an amount ordered by the county legislative body to protect the district from financial loss;
- (4) shall exercise general supervision of and make regulations for the administration of the district's affairs;

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- 1 (5) shall prescribe uniform rules pertaining to investigations and
- 2 hearings;
- 3 (6) shall supervise the fiscal affairs and responsibilities of the
- 4 district;
- 5 (7) may delegate to employees of the district the authority to
- 6 perform ministerial acts, except in cases in which final action of
- 7 the board is necessary;
- 8 (8) shall keep accurate and complete records of all departmental
- 9 proceedings, record and file all bonds and contracts, and assume
- 10 responsibility for the custody and preservation of all papers and
- 11 documents of the district;
- 12 (9) shall make an annual report to the executive and the fiscal
- 13 body of the county that at least lists the financial transactions of
- 14 the district and a statement of the progress in accomplishing the
- 15 purposes for which the district has been established;
- 16 (10) shall adopt a seal and certify all official acts;
- 17 (11) may sue and be sued collectively by its legal name ("Board
- 18 of Fire Trustees, _____ Fire Protection District"), with
- 19 service of process made on the chairman of the board, but costs
- 20 may not be taxed against the members individually in an action;
- 21 (12) may invoke any legal, equitable, or special remedy for the
- 22 enforcement of this chapter or of proper action of the board taken
- 23 in a court;
- 24 (13) shall prepare and submit to the fiscal body of the county an
- 25 annual budget for operation and maintenance expenses and for the
- 26 retirement of obligations of the district, subject to review and
- 27 approval by the fiscal body;
- 28 (14) may, if advisable, establish one (1) or more advisory
- 29 committees;
- 30 (15) may enter into agreements with and accept money from a
- 31 federal or state agency and enter into agreements with a
- 32 municipality located within or outside the district, whether or not
- 33 the municipality is a part of the district, for a purpose compatible
- 34 with the purposes for which the district exists and with the
- 35 interests of the municipality;
- 36 (16) may accept gifts of money or other property to be used for
- 37 the purposes for which the district is established;
- 38 (17) may levy taxes at a uniform rate on the real and personal
- 39 property within the district;
- 40 (18) may issue bonds and tax anticipation warrants;
- 41 (19) may incur other debts and liabilities;
- 42 (20) may purchase or rent property;

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(21) may sell services or property that are produced incident to the operations of the district making a fair and reasonable charge for it;

(22) may make contracts or otherwise enter into agreements with public or private persons and federal or state agencies for construction, maintenance, or operations of or in part of the district;

(23) may receive and disburse money; and

(24) may impose a false alarm fee or service charge under IC 36-8-13-4 **or, after December 31, 2012, IC 36-8-13.6-3.**

(b) Powers granted by this chapter may be used only to accomplish the purpose or purposes as stated in the ordinance or resolution establishing the district. However, an act of the board necessary and proper to accomplish the purposes for which the district is established is not invalid because it incidentally accomplishes a purpose other than one for which the district is established.

SECTION 81. IC 36-8-11-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. The department of local government finance, when approving a rate and levy fixed by the board, shall verify that a duplication of tax levies does not exist between a fire protection district and a municipality, ~~or~~ township, **or, after December 31, 2012, county** within the boundaries of the district, so that taxpayers do not bear two (2) levies for the same service, except as provided by section 20 of this chapter.

SECTION 82. IC 36-8-11-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. This chapter does not require a municipality, ~~or~~ township, **or, after December 31, 2012, county** to disband its fire department unless its legislative body consents by ordinance.

SECTION 83. IC 36-8-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section 10 of this chapter, this chapter applies **as follows:**

(1) **Before January 1, 2013**, to all units except counties.

(2) **After December 31, 2012, to all units except:**

(A) **a township located in a county not having a consolidated city; and**

(B) **a township that:**

(i) **is located in a county having a consolidated city; and**

(ii) **has consolidated the township's fire department under IC 36-3-1-6.1.**

(b) **On January 1, 2013, a county not having a consolidated city shall assume the powers, duties, rights, and obligations under this**

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chapter of each township in the county.

SECTION 84. IC 36-8-12-13, AS AMENDED BY P.L.107-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A volunteer fire department may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(d)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire department; and

(2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in:

(A) before January 1, 2013, the township firefighting fund established in IC 36-8-13-4; or

(B) after December 31, 2012, the township firefighting fund established under IC 36-8-13-4 (in the case of a township that is located in a county having a consolidated city and that has not consolidated the township's fire department under IC 36-3-1-6.1) or the county firefighting fund established under IC 36-8-13.6-3 (in the case of a county not having a consolidated city);

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 85. IC 36-8-12-16, AS AMENDED BY P.L.3-2008, SECTION 266, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A volunteer fire department that provides service within a jurisdiction served by the department

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may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

(1) At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides:

(A) Before the schedule of service charges is initiated.

(B) When there is a change in the amount of a service charge.

(2) The property owner has not sent written notice to the department to refuse service by the department to the owner's property.

(3) The bill for payment of the service charge:

(A) is submitted to the property owner in writing within thirty (30) days after the services are provided; and

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report.

(b) A volunteer fire department shall use the revenue collected from the fire service charges under this section:

(1) for the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) for deposit:

(A) **before January 1, 2013**, in the township firefighting fund established under IC 36-8-13-4; or

(B) **after December 31, 2012, the township firefighting fund established under IC 36-8-13-4 (in the case of a township that is located in a county having a consolidated city and that has not consolidated the township's fire department under IC 36-3-1-6.1) or the county firefighting fund established under IC 36-8-13.6-3 (in the case of a county not having a consolidated city); or**

(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(c) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the

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legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(d) A volunteer fire department that:

(1) has contracted with a political subdivision to provide fire protection or emergency services; and

(2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(e) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(f) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section.

SECTION 86. IC 36-8-12-17, AS AMENDED BY P.L.107-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) If a political subdivision has not imposed its own false alarm fee or service charge, a volunteer fire department that provides service within the jurisdiction may establish a service charge for responding to false alarms. The volunteer fire department may collect the false alarm service charge from the owner of the property if the volunteer fire department dispatches firefighting apparatus or personnel to a building or premises in the ~~township~~ **political subdivision** in response to:

(1) an alarm caused by improper installation or improper maintenance; or

(2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test.

However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge.

(b) Before establishing a false alarm service charge, the volunteer fire department must provide notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the false alarm service charge. The notice required by this subsection must be given:

(1) before the false alarm service charge is initiated; and

(2) before a change in the amount of the false alarm service charge.

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(c) A volunteer fire department may not collect a false alarm service charge from a property owner or alarm company unless the department's bill for payment of the service charge:

- (1) is submitted to the property owner in writing within thirty (30) days after the false alarm; and
- (2) includes a copy of a fire incident report in the form prescribed by the state fire marshal.

(d) A volunteer fire department shall use the money collected from the false alarm service charge imposed under this section:

- (1) for the purchase of equipment, buildings, and property for fire fighting, fire protection, or other emergency services;
- (2) for deposit in:

(A) before January 1, 2013, the township firefighting fund established under IC 36-8-13-4; or

(B) after December 31, 2012, the township firefighting fund established under IC 36-8-13-4 (in the case of a township that is located in a county having a consolidated city and that has not consolidated the township's fire department under IC 36-3-1-6.1) or the county firefighting fund established under IC 36-8-13.6-3 (in the case of a county not having a consolidated city); or

- (3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(e) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the false alarm service charge established under subsection (a) before the service charge is initiated in that political subdivision.

(f) A volunteer fire department that:

- (1) has contracted with a political subdivision to provide fire protection or emergency services; and
- (2) imposes a false alarm service charge under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of false alarm charges collected during the previous calendar year and how those funds have been expended.

(g) The volunteer fire department may maintain a civil action to recover unpaid false alarm service charges imposed under this section.

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SECTION 87. IC 36-8-13-1, AS AMENDED BY P.L.227-2005,
SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 1. This chapter applies to:

- (1) **before January 1, 2013, all townships; and**
- (2) **after December 31, 2010, a township in a county that has
a consolidated city.**

However, this chapter does not apply to a township in which the fire
department of the township has been consolidated under IC 36-3-1-6.1.

SECTION 88. IC 36-8-13.6 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]:

Chapter 13.6. County Fire Protection and Emergency Services

Sec. 1. (a) This chapter applies after December 31, 2012.

(b) This chapter does not apply to any of the following:

- (1) **A county having a consolidated city.**
- (2) **A county that has a fire protection district under
IC 36-8-11 that includes the total combined area of all the
unincorporated area of the county.**
- (3) **A county that is a participating unit (as defined in
IC 36-8-19-2) in a fire protection territory that includes all the
unincorporated area of the county.**

**Sec. 2. (a) The executive of a county, with the approval of the
legislative body, may do the following in carrying out the county's
responsibility under IC 36-2-21 to provide fire protection services:**

- (1) **Purchase firefighting and emergency services apparatus
and equipment for the county, provide for the housing, care,
maintenance, operation, and use of the apparatus and
equipment to provide services within the county but outside
the corporate boundaries of municipalities, and employ
full-time or part-time personnel to operate the apparatus and
equipment and to provide services in that area. Preference in
employment under this section shall be given according to the
following priority:**

**(A) A war veteran who has been honorably discharged
from the United States armed forces.**

(B) A person whose mother or father was a:

- (i) firefighter of a unit;**
- (ii) municipal police officer; or**
- (iii) county police officer;**

who died in the line of duty (as defined in IC 5-10-10-2).

**A person described in this subdivision may not receive a
preference for employment unless the person applies for**

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employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the county or in a contiguous county that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services in the county in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the county or in a contiguous county in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and county in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the county for the use and operation of firefighting apparatus and equipment that has been purchased by the county in order to save the private and public property of the county from destruction by fire, including use of the apparatus and equipment in an adjoining county by the department if the department has made a contract with the executive of the adjoining county to furnish firefighting service within the county.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to counties that provide fire protection or emergency services, or both, under subsection (a)(1) and to municipalities that have all municipal territory completely within a county and do not have a full-time paid fire department. A county may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the county provide the services without a contract.

(2) The county legislative body passes a resolution approving the county's provision of the services without contracts to the municipality.

In a county providing services to a municipality under this section, the legislative body of either the county or a municipality in the county may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1

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1 of a year.

2 Sec. 3. (a) For each calendar year after 2012, each county
3 annually shall establish a county firefighting fund that is to be the
4 exclusive fund used by the county for the payment of costs
5 attributable to providing fire protection or emergency services
6 under the methods prescribed in section 2 of this chapter and for
7 no other purposes. The money in the fund may be paid out by the
8 county executive with the consent of the county legislative body.

9 (b) Each county may levy, for each year, a tax for the county
10 firefighting fund. Other than a county providing fire protection or
11 emergency services, or both, to municipalities in the county under
12 section 2(b) of this chapter, and subject to IC 36-2-22, the tax levy
13 is on all taxable real and personal property in the county that is
14 outside the corporate boundaries of municipalities and that is not
15 included in a fire protection territory or fire protection district.
16 Subject to the levy limitations contained in IC 6-1.1-18.5, the
17 county levy is to be in an amount sufficient to pay all costs
18 attributable to fire protection and emergency services that are not
19 paid from other revenues available to the fund. The tax rate and
20 levy shall be established in accordance with the procedures set
21 forth in IC 6-1.1-17.

22 (c) In addition to the tax levy and service charges received
23 under IC 36-8-12-13 and IC 36-8-12-16, the executive may accept
24 donations to the county for firefighting and other emergency
25 services and shall place the donations in the fund, keeping an
26 accurate record of the sums received. A person may also donate
27 partial payment of any purchase of firefighting or other emergency
28 services equipment made by the county.

29 (d) If a fire department serving a county dispatches fire
30 apparatus or personnel to a building or premises in the county in
31 response to:

32 (1) an alarm caused by improper installation or improper
33 maintenance of the alarm; or

34 (2) a drill or test, if the fire department is not previously
35 notified that the alarm is a drill or test;

36 the county may impose a fee or service charge upon the owner of
37 the property. However, if the owner of property that constitutes
38 the owner's residence establishes that the alarm is under a
39 maintenance contract with an alarm company and that the alarm
40 company has been notified of the improper installation or
41 maintenance of the alarm, the alarm company is liable for the
42 payment of the fee or service charge.

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(e) The amount of a fee or service charge imposed under subsection (d) shall be determined by the county legislative body. All money received by the county from the fee or service charge must be deposited in the county's firefighting fund.

Sec. 4. (a) This section applies to a county that provides fire protection or emergency services, or both, to a municipality in the county under section 2(b) of this chapter.

(b) With the consent of the county legislative body, the county executive shall pay the expenses for fire protection and emergency services in the county, both inside and outside the corporate boundaries of participating municipalities, from any combination of the following county funds, regardless of when the funds were established:

(1) The county firefighting fund under section 3(a) of this chapter.

(2) The cumulative building and equipment fund under IC 36-8-14.

(3) The debt fund for taxes levied under sections 7 and 8 of this chapter.

(c) Subject to the levy limitations contained in IC 6-1.1-18.5, the tax rate and levy for the county firefighting fund, the cumulative building and equipment fund, or the debt fund are to be in an amount sufficient to pay all costs attributable to fire protection or emergency services that are provided to the county and the participating municipalities that are not paid from other available revenues. The tax rate and levy for each fund shall be established in accordance with the procedures set forth in IC 6-1.1-17 and apply both inside and outside the corporate boundaries of participating municipalities.

(d) The county executive may accept donations for firefighting and emergency services. The county executive shall place donations in the county firefighting fund. A person may donate partial payment of a purchase of firefighting or emergency services equipment made by the county.

Sec. 5. (a) For counties and municipalities that elect to have the county provide fire protection and emergency services under section 2(b) of this chapter, the department of local government finance shall adjust each county's and each municipality's maximum permissible ad valorem property tax levy in the year following the year in which the change is elected, as determined under IC 6-1.1-18.5-3, to reflect the change from providing fire protection under a contract between the municipality and the

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1 county to allowing the county to impose a property tax levy on the
 2 taxable property located within the corporate boundaries of each
 3 municipality. Each municipality's maximum permissible ad
 4 valorem property tax levy shall be reduced by the amount of the
 5 municipality's property tax levy that was imposed by the
 6 municipality to meet the obligations to the county under the fire
 7 protection contract. The county's maximum permissible ad
 8 valorem property tax levy shall be increased by the product of:

- 9 (1) the assessed value growth quotient determined under
 10 IC 6-1.1-18.5-2 for the ensuing calendar year; multiplied by
 11 (2) the amount the county received:

12 (A) in the year in which the change is elected; and

13 (B) as fire protection contract payments from all
 14 municipalities whose levy is decreased under this section.

15 (b) For purposes of determining a county's or municipality's
 16 maximum permissible ad valorem property tax levy under
 17 IC 6-1.1-18.5-3 for years following the first year after the year in
 18 which the change is elected, a county's or municipality's maximum
 19 permissible ad valorem property tax levy is the levy after the
 20 adjustment made under subsection (a).

21 Sec. 6. After a sufficient appropriation has been made and
 22 approved and is available for the purchase of firefighting
 23 apparatus and equipment, including housing, the county executive,
 24 with the approval of the county legislative body, may purchase
 25 firefighting apparatus and equipment for the county on an
 26 installment conditional sale or mortgage contract running for a
 27 period not exceeding:

- 28 (1) six (6) years; or
 29 (2) fifteen (15) years for a county that is purchasing the
 30 firefighting equipment with funding from the:
 31 (A) state or its instrumentalities; or
 32 (B) federal government or its instrumentalities.

33 The purchase shall be amortized in equal or approximately equal
 34 installments payable on January 1 and July 1 each year.

35 Sec. 7. (a) Subject to section 8 of this chapter, the executive and
 36 legislative body, on behalf of the county, also may borrow the
 37 necessary money from a financial institution in Indiana to make
 38 the purchase on the same terms. The executive and legislative body
 39 shall, on behalf of the county, execute and deliver to the institution
 40 the negotiable note or bond of the county for the sum borrowed.
 41 The note or bond must bear interest, with both principal and
 42 interest payable in equal or approximately equal installments on

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January 1 and July 1 each year over a period not exceeding six (6) years.

(b) The first installment of principal and interest on a contract, chattel mortgage, note, or bond is due on the next January 1 or July 1 following the first tax collection for which it is possible for the county to levy a tax. The executive and legislative body shall appropriate and levy a tax each year sufficient to pay the obligation according to its terms. An obligation of the county executed under this chapter is a valid and binding obligation of the county, notwithstanding any tax limitation, debt limitation, bonding, borrowing, or other statute to the contrary.

Sec. 8. (a) If the executive and the legislative body determine that money should be borrowed under section 7 of this chapter, not less than ten (10) taxpayers in the county who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a date, time, and place for the hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the county and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a);
or

(2) county against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The

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petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

Sec. 9. (a) All purchases of firefighting apparatus and equipment shall be made in the manner provided by statute for the purchase of county supplies. If the amount involved is sufficient to require notice under statutes for bids in connection with the purchase of apparatus or equipment, the notice must offer all bidders the opportunity of proposing to sell the apparatus or equipment to the county upon a conditional sale or mortgage contract.

(b) A bidder proposing to sell on a conditional sale or mortgage contract shall state in the bidder's bid the proposed interest rate and terms of the conditional sale or contract, to be considered by the county executive and legislative body in determining the best bid received.

(c) All bids submitted must specify the cash price at which the bidder proposes to sell the apparatus or equipment to the county so that the executive and legislative body may determine whether it is in the best interest of the county to purchase the apparatus or equipment on the terms of a conditional sale or mortgage contract proposed by the bidder or to purchase the apparatus or equipment for cash if sufficient funds are available or can be raised by negotiating a loan with a financial institution in accordance with this section.

Sec. 10. A county having a regularly organized fire department employing full-time firefighters may procure at the county's expense:

(1) an insurance policy for each member of the department insuring the member against the loss of life or dismemberment while in the performance of regularly assigned duties; and

(2) group insurance providing supplemental income protection for a member of the department who has been injured during the course of employment.

The insurance coverage shall be selected with the consent of the members and is supplemental to other benefits provided the injured member by law.

Sec. 11. (a) A county shall pay for the care of a full-time, paid firefighter who:

(1) suffers an injury; or

(2) contracts an illness;

during the performance of the firefighter's duty.

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(b) The county shall pay for the following expenses incurred by a firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic services, including during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the county firefighting fund established under section 3 of this chapter.

(d) A county that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The county's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.

Sec. 12. Notwithstanding section 3 of this chapter, a county fiscal body may after December 31, 2012, authorize the county executive to borrow a specified sum from a county fund other than the county firefighting fund if the county fiscal body finds that the emergency requiring the expenditure of money is related to paying the operating expenses of a county fire department or a volunteer fire department. The county fiscal body shall provide for payment of the debt by imposing a levy to the credit of the fund from which the amount was borrowed under this subsection.

SECTION 89. IC 36-8-13.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 13.7. County Public Safety Planning Boards

Sec. 1. This chapter applies to each county not having a consolidated city.

Sec. 2. As used in this chapter, "board" means the public safety planning board established for a county under section 4 of this chapter.

Sec. 3. As used in this chapter, "coordinated public safety services" means the following services:

(1) Law enforcement and police protection, including homicide and major crime investigation.

(2) Fire protection.

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- (3) Emergency medical services.
- (4) Hazardous materials response.
- (5) Forensics and evidence gathering.
- (6) Fire prevention and related inspection.
- (7) Anti-terrorism preparedness.
- (8) Emergency telephone systems and services, public safety answering and dispatch systems and services, and other emergency communications.
- (9) Sirens (including severe weather warning sirens) and other emergency warning systems and services.
- (10) Jail operations, maintenance, and facilities.

Sec. 4. (a) A public safety planning board is established on July 1, 2011, in each county subject to this chapter. The board consists of the following members:

- (1) The county executive.
- (2) The county sheriff.
- (3) The mayor of each city in the county.
- (4) The president of the town council of the largest town in the county.
- (5) The chief or a firefighter of a volunteer fire department operating in the county, appointed by the county council.
- (6) An individual appointed by the legislative body of each political subdivision in the county that:
 - (A) is providing a coordinated public safety service; and
 - (B) is not otherwise represented on the board by a member appointed under subdivisions (1) through (5).

(b) A majority of the members of the board constitutes a quorum. An affirmative vote of a majority of the members of the board is required for the board to take action.

(c) The members of the board serve at the pleasure of the appointing authority.

(d) The members of the board are not entitled to compensation for their services but are allowed their actual and necessary traveling and other expenses to be paid in the same manner as the other expenses by the county executive.

(e) The board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

Sec. 5. (a) The board shall before July 1, 2012, prepare a binding public safety plan that applies to coordinated public safety services throughout the entire county.

(b) The plan must do the following:

- (1) Include local standards of service for coordinated public

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safety services.

(2) Review and (if necessary) require the adjustment of collaborative service arrangements related to coordinated public safety services, including contracts and interlocal cooperative agreements.

(3) Subject to IC 36-2-22, provide for a fair distribution of coordinated public safety services and the tax burden or other financing necessary to pay for those coordinated public safety services.

Sec. 6. (a) The public safety plan prepared for a county under section 5 of this chapter by the board applies to the provision of coordinated public safety services after December 31, 2012, and to property taxes and fees first due and payable after December 31, 2012.

(b) The following apply if a board does not before July 1, 2012, prepare a public safety plan under section 5 of this chapter for the county:

(1) The department of homeland security shall before July 1, 2013, prepare a binding public safety plan for the county. The plan prepared by the department of homeland security must satisfy the requirements of section 5 of this chapter.

(2) The maximum permissible ad valorem property tax levy of a political subdivision in the county that provides a coordinated public safety service may not be increased for property taxes first due and payable in 2013.

(3) The maximum permissible ad valorem property tax levy for property taxes first due and payable in 2013 of a political subdivision described in subdivision (2) is equal to the political subdivision's maximum permissible ad valorem property tax levy for property taxes first due and payable in 2012.

Sec. 7. A board shall do the following:

(1) Periodically review the public safety plan prepared under section 5 of this chapter and update the public safety plan as necessary.

(2) Provide recommendations concerning coordinated public safety services in the county and assist political subdivisions in the provision of coordinated public safety services.

SECTION 90. IC 36-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Before January 1, 2013, this chapter applies to all units except counties.

(b) After December 31, 2012, this chapter applies to the

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following units:

(1) A municipality.

(2) A township in a county that is located in a consolidated city and that has not consolidated its fire department under IC 36-3-1-6.1.

(3) A county that:

(A) does not have a consolidated city;

(B) does not have a fire protection district under IC 36-8-11 that includes the total combined area of all the townships in the county; and

(C) is not a participating unit (as defined in IC 36-8-19-2) in a fire protection territory that includes all of the unincorporated area of the county.

SECTION 91. IC 36-8-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this section, "emergency medical services" has the meaning set forth in IC 16-18-2-110.

(b) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

(c) The legislative body of a unit or the board of fire trustees of a fire protection district may provide a cumulative building and equipment fund under IC 6-1.1-41 for the following purposes:

(1) The:

(A) purchase, construction, renovation, or addition to buildings; or

(B) purchase of land;

used by the fire department or a volunteer fire department serving the unit.

(2) The purchase of firefighting equipment for use of the fire department or a volunteer fire department serving the unit, including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment.

(3) In a municipality, the purchase of police radio equipment.

(4) The:

(A) purchase, construction, renovation, or addition to a building;

(B) purchase of land; or

(C) purchase of equipment;

for use of a provider of emergency medical services under IC 16-31-5 to the unit establishing the fund.

(d) In addition to the requirements of IC 6-1.1-41, before a cumulative fund may be established by a township fire protection

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district, the county legislative body which appoints the trustees of the fire protection district must approve the establishment of the fund.

(e) There is established effective January 1, 2013, in each county referred to in section 1(b)(3) of this chapter a cumulative building and equipment fund. The adoption and approval provisions of IC 6-1.1-41 do not apply to the establishment of the fund under this subsection. The tax levy provisions of IC 6-1.1-41 apply to the fund.

SECTION 92. IC 36-8-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) To provide for the cumulative building and equipment fund established under this chapter, the legislative body may levy a tax on all taxable property within the taxing district in compliance with IC 6-1.1-41. The tax rate may not exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of assessed valuation of property in the taxing district.

(b) As the tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund to be known as:

(1) the "building or remodeling, firefighting, and police radio equipment fund" in the case of a municipality; or ~~as~~

(2) the "building or remodeling and fire equipment fund" in the case of a township, **a county (after December 31, 2012), or a fire protection district.**

SECTION 93. IC 36-8-19-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.7. (a) **Except as otherwise provided, the dissolution of township government under IC 36-6-1.1 and the transfer of fire protection responsibilities to counties under IC 36-2-21 and IC 36-8-13.6 (effective January 1, 2013) does not terminate a fire protection territory in existence under this chapter as of December 31, 2012.**

(b) This subsection applies to a county not having a consolidated city. The following apply on and after January 1, 2013, if a township in the county is a participating unit as of December 31, 2012:

(1) The township ceases to be a participating unit.

(2) The county shall become a participating unit and shall assume the powers, duties, rights, responsibilities, and obligations previously held by the township that was a participating unit (including the township's share of any debt issued under this chapter).

(3) The department of local government finance shall make any necessary adjustments to the maximum permissible ad

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valorem property tax levy for the county firefighting fund to take into account the transfer of powers, duties, rights, responsibilities, and obligations under this subsection.

(c) This subsection applies to a fire protection territory:

- (1) that is located in a county not having a consolidated city;
- (2) that includes only unincorporated area within a county; and
- (3) in which the only participating units are townships located within the county.

A fire protection territory subject to this subsection as of December 31, 2012, is terminated on January 1, 2013, and the county shall assume the responsibilities and obligations previously held by the townships that were participating units (including the townships' share of any debt issued under this chapter). The department of local government finance shall make any necessary adjustments to the maximum permissible ad valorem property tax levy for the county firefighting fund to take into account the transfer of responsibilities and obligations under this subsection.

SECTION 94. IC 36-8-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) **A fire protection territory may not be established after June 30, 2009.** Subject to subsections (b) and (c), the legislative bodies of at least two (2) contiguous units may establish a fire protection territory for any of the following purposes:

- (1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.
- (2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
- (3) Other purposes or functions related to fire protection and fire prevention.

(b) Not more than one (1) unit within the proposed territory may be designated as the provider unit for the territory.

(c) The boundaries of a territory need not coincide with those of other political subdivisions.

SECTION 95. IC 36-8-19-8, AS AMENDED BY P.L.128-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the

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1 fire protection services within the territory, including repairs, fees,
 2 salaries, depreciation on all depreciable assets, rents, supplies,
 3 contingencies, and all other expenses lawfully incurred within the
 4 territory shall be paid. The purposes described in this subsection are the
 5 sole purposes of the fund, and money in the fund may not be used for
 6 any other expenses. Except as allowed in subsections (d) and (e) and
 7 section 8.5 of this chapter, the provider unit is not authorized to transfer
 8 money out of the fund at any time.

9 (b) The fund consists of the following:

10 (1) All receipts from the tax imposed under this section.

11 (2) Any money transferred to the fund by the provider unit as
 12 authorized under subsection (d).

13 (3) Any receipts from a false alarm fee or service charge imposed
 14 by the participating units under IC 36-8-13-4 **or, after December**
 15 **31, 2012, IC 36-8-13.6-3.**

16 (4) Any money transferred to the fund by a participating unit
 17 under section 8.6 of this chapter.

18 (c) The provider unit, with the assistance of each of the other
 19 participating units, shall annually budget the necessary money to meet
 20 the expenses of operation and maintenance of the fire protection
 21 services within the territory, plus a reasonable operating balance, not
 22 to exceed twenty percent (20%) of the budgeted expenses. After
 23 estimating expenses and receipts of money, the provider unit shall
 24 establish the tax levy required to fund the estimated budget. The
 25 amount budgeted under this subsection shall be considered a part of
 26 each of the participating unit's budget.

27 (d) If the amount levied in a particular year is insufficient to cover
 28 the costs incurred in providing fire protection services within the
 29 territory, the provider unit may transfer from available sources to the
 30 fire protection territory fund the money needed to cover those costs. In
 31 this case:

32 (1) the levy in the following year shall be increased by the amount
 33 required to be transferred; and

34 (2) the provider unit is entitled to transfer the amount described
 35 in subdivision (1) from the fund as reimbursement to the provider
 36 unit.

37 (e) If the amount levied in a particular year exceeds the amount
 38 necessary to cover the costs incurred in providing fire protection
 39 services within the territory, the levy in the following year shall be
 40 reduced by the amount of surplus money that is not transferred to the
 41 equipment replacement fund established under section 8.5 of this
 42 chapter. The amount that may be transferred to the equipment

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1 replacement fund may not exceed five percent (5%) of the levy for that
 2 fund for that year. Each participating unit must agree to the amount to
 3 be transferred by adopting an ordinance (if the unit is a county or
 4 municipality) or a resolution (if the unit is a township) that specifies an
 5 identical amount to be transferred.

6 (f) The tax under this section is not subject to the tax levy
 7 limitations imposed on civil taxing units under IC 6-1.1-18.5 for any
 8 unit that is a participating unit in a fire protection territory that was
 9 established before August 1, 2001.

10 (g) This subsection applies to a participating unit in a fire protection
 11 territory established under ~~IC 36-8-19~~ **this chapter** after July 31, 2001.
 12 For purposes of calculating a participating unit's maximum permissible
 13 ad valorem property tax levy for the three (3) calendar years in which
 14 the participating unit levies a tax to support the territory, the unit's
 15 maximum permissible ad valorem property tax levy for the preceding
 16 calendar year under IC 6-1.1-18.5-3(a) STEP ONE or
 17 IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount
 18 equal to the difference between the:

19 (1) amount the unit will have to levy for the ensuing calendar year
 20 in order to fund the unit's share of the fire protection territory
 21 budget for the operating costs as provided in the ordinance or
 22 resolution making the unit a participating unit in the fire
 23 protection territory; and

24 (2) unit's levy for fire protection services for the calendar year that
 25 immediately precedes the ensuing calendar year in which the
 26 participating unit levies a tax to support the territory.

27 SECTION 96. IC 36-9-17.5-1 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies:

29 (1) **before January 1, 2013**, to all townships; and

30 (2) **after December 31, 2012**, to a township in a county having
 31 a consolidated city.

32 SECTION 97. IC 36-10-7-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) **Subject to**
 34 **subsection (b)**, this chapter applies to the townships indicated in each
 35 section.

36 (b) **After December 31, 2012**, powers and duties related to parks
 37 and recreation that are imposed by this chapter on a township in
 38 a county not having a consolidated city are transferred to the
 39 county executive.

40 SECTION 98. IC 36-10-7.5-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) **Before January**
 42 **1, 2013**, this chapter applies to all townships.

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1 (b) After December 31, 2012, in a county not having a
2 consolidated city, all powers and duties of a township related to
3 parks and recreation are transferred to the county executive.

4 SECTION 99. [EFFECTIVE JULY 1, 2009] (a) The department
5 of local government finance shall adjust maximum permissible
6 property tax levies and property tax rates of units of local
7 government as necessary to account for transfers of duties, powers,
8 and obligations under this act.

9 (b) This SECTION expires January 1, 2014.

10 SECTION 100. [EFFECTIVE JULY 1, 2009] (a) The legislative
11 services agency shall prepare, as directed by the legislative council,
12 legislation for introduction in the 2010 regular session of the
13 general assembly to organize and correct statutes affected by this
14 act, if necessary.

15 (b) This SECTION expires July 1, 2010.

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